

RESOLUTION NO. 1470

A RESOLUTION OF THE CITY OF CENTRAL POINT, OREGON, GRANTING A NON-EXCLUSIVE FRANCHISE AGREEMENT TO FALCON CABLE SYSTEMS COMPANY II, L.P., LOCALLY KNOWN AS CHARTER COMMUNICATIONS.

This Franchise Agreement (“Franchise”) is between the City of Central Point, Oregon, hereinafter referred to as the “Grantor” and Falcon Cable Systems Company II, L.P., locally known as CHARTER COMMUNICATIONS, hereinafter referred to as the “Grantee.”

WHEREAS, the Grantor finds that the Grantee has substantially complied with the material terms of the current Franchise under applicable laws, and that the financial, legal and technical ability of the Grantee is sufficient to provide services, facilities and equipment necessary to meet the future cable-related needs of the community, and

WHEREAS, having afforded the public adequate notice and opportunity for comment, Grantor desires to enter into this Franchise with the Grantee for the construction and operation of a cable system on the terms set forth herein; and

WHEREAS, the Grantor and Grantee have complied with all federal and State-mandated procedural and substantive requirements pertinent to this franchise renewal;

NOW, THEREFORE, THE CITY OF CENTRAL POINT DOES HEREBY RESOLVE:

SECTION 1
Definition of Terms

1.1 Terms. For the purpose of this franchise the following terms, phrases, words and their derivations shall have the meaning ascribed to them in the Cable Communications Policy Act of 1984, as amended from time to time (the “Cable Act”), unless otherwise defined herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word “shall” is mandatory and “may” is permissive. Words not defined shall be given their common and ordinary meaning.

- A. “Cable System,” “Cable Service,” and “Basic Cable Service” shall be defined as set forth in the Cable Act.
- B. “Board/Council” shall mean the governing body of the Grantor.
- C. “Cable Act” shall mean the Cable Communication Policy Act of 1984, as amended, 47 U.S.C. §§ 521, et. seq. and as hereafter amended, according to applicable law.
- D. “FCC” shall mean the Federal Communications Commission and any successor governmental entity thereto.

- E. "Franchise" shall mean the non-exclusive rights granted pursuant to this Franchise to construct operate and maintain a Cable System along the public ways within all or a specified area in the Service Area.
- F. "Gross Revenues" shall mean any and all revenue, in accordance with generally accepted accounting principles, received by Grantee or Grantee's Affiliates from the operation of the Grantee's Cable System to provide Cable Services, in the Service Area. Gross revenue includes, by way of illustration and not limitation, amounts charged for basic service; home shopping commissions; optional premium services; event-based services (such as video-on-demand and pay-per-view); cable programming services; audio services; installation, disconnection, reconnection, wire maintenance fees and charges, and changes-in-service fees; equipment rentals; leased channel fees; and advertising revenue. Grantee shall not unlawfully allocate revenue between Cable Services and non-Cable Services where such services are bundled together in a discounted package offered to Subscribers for the purpose of evading its franchise fee obligations. Gross Revenues shall not include (1) any taxes, fees or assessments of general applicability, such as the FCC user fee and the franchise fee, or any sales or utility taxes; (2) unrecovered bad debt; (3) credits, refunds and deposits paid to Subscribers; (4) any exclusions available under applicable State law; (5) any capital PEG support recovered from Subscribers; and (6) any barter, trade, or value of free or discounted services.
- G. "Person" shall mean an individual, partnership, association, organization, corporation, trust or governmental entity.
- H. "Service Area" shall mean the geographic boundaries of the Franchise Authority, and shall include any additions thereto by annexation or other legal means, subject to the exception in subsection 6.1 hereto.
- I. "State" shall mean the State of Oregon.
- J. "Street" shall include each of the following located within the Service Area: public streets, roadways, highways, bridges, land paths, boulevards, avenues, lanes, alleys, sidewalks, circles, drives, easements, rights of way and similar public ways and extensions and additions thereto, including but not limited to public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses now or hereafter held by the Grantor in the Service Area, which shall entitle the Grantee to the use thereof for the purpose of installing, operating, repairing and maintaining the Cable System.
- K. "Subscriber" shall mean any Person lawfully receiving Cable Service from the Grantee.

SECTION 2 Grant of Franchise

2.1 Grant. The Grantor hereby grants to the Grantee a nonexclusive Franchise which authorizes the Grantee to erect, construct, operate and maintain in, upon, along, across, above, over and under the Streets, now in existence and as may be created or established during its

terms; any poles, wires, cable, underground conduits, manholes, and other conductors and fixtures necessary for the maintenance and operation of a Cable System. Nothing in this Franchise shall be construed to prohibit the Grantee from offering any service over its Cable System that is not prohibited by federal, State or local law.

2.2 Term. The Franchise and the rights, privileges and authority hereby granted shall be for an initial term *of ten (10) years*, commencing on the Effective Date of this Franchise as set forth in Section 16.10. This Franchise shall automatically extend for successive one (1) year terms, unless either party to this Franchise shall provide the other with written notice pursuant to Section 16.5 at least three (3) months prior to the end of the current term of this Franchise to discontinue automatic extensions and seek renewal of this franchise agreement. If such a notice is given, Grantor acknowledges that Grantee's full federal renewal rights under Section 626 of Title VI of the Communications Act of 1934, as amended, (47 U.S.C. § 546) shall be in effect.

2.3 Police Powers and Conflicts with Franchise. The Grantee agrees to comply with the terms of any lawfully adopted generally applicable local ordinance necessary to the safety, health, and welfare of the public, to the extent that the provisions of the ordinance do not have the effect of limiting the benefits or expanding the obligations of the Grantee that are granted by this Franchise. This Franchise is a contract and except as to those changes which are the result of the Grantor's lawful exercise of its general police power, the Grantor may not take any unilateral action which materially changes the explicit mutual promises in this contract. Any changes to this Franchise must be made in writing signed by the Grantee and the Grantor. In the event of any conflict between this Franchise and any Grantor ordinance or regulation that is not generally applicable, this Franchise shall control.

2.4 Cable System Franchise Required. No Cable System shall be allowed to occupy or use the streets or public rights-of-way of the Service Area or be allowed to operate without a Cable System Franchise.

2.5 State and Federal Regulations to Apply. This Franchise Agreement is subject to all applicable State of Oregon and federal statutes and regulations that are in effect upon the making of this Agreement. Grantee and Grantor acknowledge that this Franchise has been entered into by the parties under terms of the Cable Communications Policy Act of 1984 (47 U.S.C. 521 *et seq.*). Grantor and Grantee agree to negotiate in good faith toward the establishment of different material terms and conditions of this agreement to account for changes in state and federal law and regulations during the term of this franchise period. Such negotiations and resulting modifications must be consistent with applicable laws.

SECTION 3 Franchise Renewal

3.1 Procedures for Renewal. The Grantor and the Grantee agree that any proceedings undertaken by the Grantor that relate to the renewal of the Grantee's Franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act, or any such successor statute.

SECTION 4
Indemnification and Insurance

4.1 Indemnification. The Grantee shall, by acceptance of the Franchise granted herein, hold harmless, indemnify, and defend the Grantor, its officers, Councils, commissions, agents, and employees for all claims for injury to any Person or property caused by the negligence of Grantee in the construction or operation of the Cable System and in the event of a determination of liability shall indemnify, defend and hold Grantor, its officers, Councils, commissions, agents, and employees harmless from any and all liabilities, claims, demands, or judgments growing out of any injury to any Person or property as a result of the negligence of Grantee arising out of the construction, repair, extension, maintenance, operation or removal of its wires, poles or other equipment of any kind or character used in connection with the operation of the Cable System, provided that the Grantor shall give the Grantee written notice of its obligation to indemnify the Grantor within fourteen (14) days of receipt of a claim or action pursuant to this section. In the event any such claim arises, the Grantor shall tender the defense thereof to the Grantee and the Grantee shall have the right to defend, settle or compromise any claims arising hereunder and the Grantor shall cooperate fully herein. If the Grantor determines in good faith that its interests cannot be represented by the Grantee, the Grantee shall be excused from any obligation to defend the Grantor, however, its duty to indemnify and hold harmless shall continue to exist, provided that Grantee agrees that the selection of separate representation is reasonable and that the outcome is reasonable. Notwithstanding the foregoing, the Grantee shall not be obligated to indemnify the Grantor for any damages, liability or claims resulting from the willful misconduct or negligence of the Grantor or for the Grantor's use of the Cable System.

4.2 Insurance.

- A. The Grantee shall maintain throughout the term of the Franchise insurance in amounts at least as follows:

Workers' Compensation	Statutory Limits
Commercial General Liability	[\$1,000,000] per occurrence, Combined Single Limit (C.S.L.) [\$2,000,000] General Aggregate
Auto Liability including coverage on all owned, non-owned hired autos	[\$1,000,000] per occurrence C.S.L.
Umbrella Liability	
Umbrella Liability	[\$1,000,000] per occurrence C.S.L.

- B. The Grantor, its officers and employees shall be added as an additional insured, arising out of work performed by Grantee, or its operation, maintenance and use of the Cable System or Cable Service, to the above Commercial General Liability, Auto Liability and Umbrella Liability insurance coverage. Such Insurance carrier will endeavor to provide advance written notice of cancellation to the City Manager or his designee. If the policy is cancelled, Grantee will provide a new certificate of insurance evidencing such coverage meeting the requirements of this franchise Agreement.

- C. The Grantee shall furnish the Grantor with current certificates of insurance evidencing such coverage upon request.

SECTION 5

Service Obligations

5.1 No Discrimination. Grantee shall not deny service, deny access, or otherwise discriminate against Subscribers, channel users, or general citizens on the basis of race, color, religion, national origin, age or sex.

5.2 Privacy. The Grantee shall fully comply with the privacy rights of Subscribers as contained in Cable Act Section 631 (47 U.S.C. § 551).

SECTION 6

Service Availability

6.1 Service Area. The Grantee shall continue to provide Cable Service to all residences within the Service Area where Grantee currently provides Cable Service. Grantee shall have the right, but not the obligation, to extend the Cable System into any other portion of the Service Area, including annexed areas. Cable Service offered to Subscribers pursuant to this Franchise shall be conditioned upon Grantee having legal access to any such Subscriber's dwelling unit or other units wherein such Cable Service is provided.

6.2 New Development Underground. In cases of new construction or property development where utilities are to be placed underground, the Grantor agrees to require as a condition of issuing a permit for open trenching to any developer or property owner that such developer or property owner give Grantee at least thirty (30) days prior written notice of such construction or development, and of the particular dates on which open trenching will be available for Grantee's installation of conduit, pedestals and/or vaults, and laterals to be provided at Grantee's expense. Grantee shall also provide specifications as needed for trenching. Costs of trenching and easements required to bring service to the development shall be borne by the developer or property owner; except that if Grantee fails to install its conduit, pedestals and/or vaults, and laterals within five (5) working days of the date the trenches are available, as designated in the written notice given by the developer or property owner, then should the trenches be closed after the (5) five day period, the cost of new trenching is to be borne by Grantee.

6.3 Annexation. The Grantor shall promptly provide written notice to the Grantee of its annexation of any territory which is being provided Cable Service by the Grantee or its affiliates. Such annexed area will be subject to the provisions of this Franchise, subject to the conditions set forth below and Section 6.1 above. The Grantor shall also notify Grantee in writing of all new street address assignments or changes within the Service Area. Any identified Subscriber addresses shall be included in Grantee's franchise fee calculations within ninety (90) days after receipt of the annexation notice which shall include the addresses that will be moved into the Service Area in an Excel format or in a format that will allow Grantee to change its billing system. If the annexation notice does not include the addresses that will be moved into the Service Area, Grantee shall include the identified Subscriber addresses in the franchise fee calculations within ninety (90) days after it receives the annexed addresses as set forth above. All notices due under this section shall be sent by certified mail, return receipt requested to the

addresses set forth in Section 14.5 with a copy to the Director of Government Affairs. In any audit of franchise fees due under this Franchise, Grantee shall not be liable for franchise fees on annexed areas unless and until Grantee has received notification and information that meets the standards set forth in this section.

SECTION 7

Construction and Technical Standards

7.1 Compliance with Codes. All construction practices and installation of equipment shall be done in accordance with all applicable sections of the National Electric Safety Code as well as generally applicable and nondiscriminatory provisions of the Central Point Municipal Code related to construction, excavation, street-cutting fees and other work related to the streets in the Service Area.

7.2 Construction Standards and Requirements. All of the Grantee's plant and equipment, including but not limited to the antenna site, headend and distribution system, towers, house connections, structures, poles, wire, cable, coaxial cable, fixtures and appurtenances shall be installed, located, erected, constructed, reconstructed, replaced, removed, repaired, maintained and operated in accordance with good engineering practices and performed by experienced maintenance and construction personnel.

7.3 Safety. The Grantee shall at all times employ ordinary care and shall use commonly accepted methods and devices preventing failures and accidents which are likely to cause damage.

7.4 Network Technical Requirements. The Cable System shall be designed, constructed and operated so as to meet those technical standards adopted by the FCC relating to Cable Systems contained in part 76 of the FCC's rules and regulations as may be amended from time to time, regardless of the transmission technology utilized.

7.5 Performance Monitoring. Grantee shall test the Cable System consistent with the FCC regulations.

SECTION 8

Conditions on Street Occupancy

8.1 General Conditions. Grantee shall have the right to utilize existing poles, conduits and other facilities whenever possible, and shall not construct or install any new, different, or additional poles, conduits, or other facilities on public property without obtaining all legally required permits of the Grantor.

8.2 Underground Construction. The facilities of the Grantee shall be installed underground in those Service Areas where existing telephone and electric services are both underground at the time of system construction. In areas where either telephone or electric utility facilities are installed aerially at the time of system construction, the Grantee may install its facilities aerially with the understanding that at such time as the existing aerial facilities are required to be placed underground by the Grantor, the Grantee shall likewise place its facilities underground. In the event that any telephone or electric utilities are reimbursed by the Grantor or any agency thereof

for the placement of cable underground or the movement of cable, Grantee shall be reimbursed upon the same terms and conditions as any telephone, electric or other utilities.

8.3 Construction Codes and Permits. Grantee shall obtain all legally required permits before commencing any work requiring a permit, including the opening or disturbance of any Street within the Service Area. The Grantor shall cooperate with the Grantee in granting any permits required, providing such grant and subsequent construction by the Grantee shall not unduly interfere with the use of such Streets. The Grantee shall adhere to all building and zoning codes currently or hereafter applicable to construction, operation or maintenance of the Cable System in the Service Area, provided that such codes are of general applicability and such codes are uniformly and consistently applied by the Grantor as to other public utility companies and other entities operating in the Service Area. The reasonable payment of any cost based and generally applicable and non-discriminatory right-of-way permit fees, street cutting fees, or development permit fees is required in addition to payment of the franchise fee herein. Except in an emergency, no work affecting streets shall be done by Grantee without first obtaining the permits required by the Grantor, which may include plan submittal and approval before the work begins. In case of an emergency, Grantee shall notify Grantor at the earliest possible time.

8.4 System Construction. All transmission lines, equipment and structures shall be so installed and located as to cause minimum interference with the rights and reasonable convenience of property owners and at all times shall be kept and maintained in a safe, adequate and substantial condition, and in good order and repair. The Grantee shall, at all times, employ ordinary care and use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public. Suitable barricades, flags, lights, flares or other devices shall be used at such times and places as are reasonably required for the safety of all members of the public. Any poles or other fixtures placed in any public way by the Grantee shall be placed in such a manner as not to interfere with the usual travel on such public way.

8.5 Restoration of Public Ways. Grantee shall, at its own expense, restore any damage or disturbance caused to the public way as a result of its operation, construction, or maintenance of the Cable System to a condition reasonably comparable to the condition of the Streets immediately prior to such damage or disturbance.

8.6 Removal in Emergency. Whenever, in case of fire or other disaster, it becomes necessary in the judgment of the Grantor to remove any of the Grantee's facilities, no charge shall be made by the Grantee against the Grantor for restoration and repair, unless such acts amount to gross negligence by the Grantor.

8.7 Tree Trimming. Grantee or its designee shall have the authority to trim trees on public property at its own expense as may be necessary to protect its wires and facilities.

8.8 Relocation for the Grantor. The Grantee shall, upon receipt of reasonable advance written notice, to be not less than ten (10) business days, protect, support, temporarily disconnect, relocate, or remove any property of Grantee when lawfully required by the Grantor pursuant to its police powers. Grantee shall be responsible for any costs associated with these obligations to the same extent all other users of the Grantor rights-of-way are responsible for the costs related to the relocation of their facilities.

8.9 Relocation for a Third Party. The Grantee shall, on the request of any Person holding a lawful permit issued by the Grantor, protect, support, raise, lower, temporarily disconnect, relocate in or remove from the Street as necessary any property of the Grantee, provided that the expense of such is paid by any such Person benefiting from the relocation and the Grantee is give reasonable advance written notice to prepare for such changes. The Grantee may require such payment in advance. For purposes of this subsection, “reasonable advance written notice” shall be no less than ten (10) business days in the event of a temporary relocation and no less than one hundred twenty (120) days for a permanent relocation.

8.10 Reimbursement of Costs. If funds are available to any Person using the Streets for the purpose of defraying the cost of any of the foregoing, the Grantor shall reimburse the Grantee in the same manner in which other Persons affected by the requirement are reimbursed. If the funds are controlled by another governmental entity, the Grantor shall make application for such funds on behalf of the Grantee.

8.11 Emergency Use. If the Grantee provides an Emergency Alert System (“EAS”), then the Grantor shall permit only appropriately trained and authorized Persons to operate the EAS equipment and shall take reasonable precautions to prevent any use of the Grantee’s Cable System in any manner that results in inappropriate use thereof, or any loss or damage to the Cable System. The Grantor shall hold the Grantee, its employees, officers and assigns harmless from any claims or costs arising out of use of the EAS, including, but not limited to, reasonable attorneys’ fees and costs.

SECTION 9

Service and Rates

9.1 Phone Service. The Grantee shall maintain a toll-free telephone number and a phone service operated such that complaints and requests for repairs or adjustments may be received at any time.

9.2 Notification of Service Procedures. The Grantee shall furnish each Subscriber at the time service is installed, written instructions that clearly set forth information concerning the procedures for making inquiries or complaints, including the Grantee’s name, address and local telephone number. Grantee shall give the Grantor thirty (30) days prior notice of any rate increases, channel lineup or other substantive service changes.

9.3 Rate Regulation. Grantor shall have the right to exercise rate regulation to the extent authorized by law, or to refrain from exercising such regulation for any period of time, at the sole discretion of the Grantor. If and when exercising rate regulation, the Grantor shall abide by the terms and conditions set forth by the FCC.

9.4 Continuity of Service. It shall be the right of all Subscribers to continue receiving Cable Service insofar as their financial and other obligations to the Grantee are honored, and subject to Grantee’s rights under Section 16.1 of this Franchise.

SECTION 10

Franchise Fee

10.1 Amount of Fee. Grantee shall pay to the Grantor an annual franchise fee in an amount equal to **five percent (5%)** of the annual Gross Revenue. Such payment shall be in addition to taxes of general applicability owed to the Grantor by the Grantee that are not included as franchise fees under federal law. Franchise fees may be passed through to Subscribers as a line item on Subscriber bills or otherwise as Grantee chooses, consistent with federal law.

10.2 Payment of Fee. Payment of the fee due the Grantor shall be made on a quarterly basis, within forty-five (45) days of the close of each calendar quarter. The payment period and the collection of the franchise fees that are to be paid to the Grantor pursuant to the Franchise shall commence sixty (60) days after the Effective Date of the Franchise as set forth in Section 16.10. In the event of a dispute, the Grantor, if it so requests, shall be furnished a statement of said payment, reflecting the Gross Revenues and the applicable charges.

10.3 Accord and Satisfaction. No acceptance of any payment by the Grantor shall be construed as a release or as an accord and satisfaction of any claim the Grantor may have for additional sums payable as a franchise fee under this Franchise.

10.4 Inspection of Books and Records. On an annual basis, no more frequently than every twelve (12) months, upon thirty (30) days prior written notice, the Grantor shall have the right to audit the books and records of Grantee to determine whether the Grantee has paid the franchise fees owed in accordance with generally accepted accounting principles. The audit shall not last longer than six (6) months. Grantee and Grantor agree to reasonably cooperate to complete the audit within the six (6) month period. Any undisputed additional amounts due to the Grantor as a result of the audit shall be paid within ninety (90) days following written notice to the Grantee by the Grantor, which notice shall include a copy of the audit findings. Reimbursements for underpayments as a result of audit findings are subject to late payment interest as set forth herein. In the event that any Franchise payment or recomputed payment is not made on or before the dates specified herein, the Grantee, upon request from the Grantor, shall pay an interest charge, computed from such due date, at the annual rate equal to the commercial prime interest rate, plus one percent (1%) during the period such unpaid amount is owed. The period of limitation for recovery of any franchise fee payable hereunder shall be three (3) years from the date on which payment by the Grantee was due.

10.5 Late Payments to Grantor. The City may assess any late franchise fees due under this Franchise at an annual interest rate of prime plus one percent (1%).

10.6 Franchise Fee. Grantee shall pay to the Grantor an annual franchise fee in an amount equal to five (5 %) percent of the annual Gross Revenue. Such payment shall be in addition to taxes of general applicability owed to the Grantor by the Grantee that are not included as franchise fees under federal law. Franchise fees may be passed through to Subscribers as a line item on Subscriber bills or otherwise as Grantee chooses, consistent with federal law. The parties acknowledge that, at present, the Cable Act limits the City to collection of a maximum permissible Franchise Fee of five percent (5%) of Gross Revenues. In the event that a change in the Cable Act would allow the City to increase the Franchise Fee above five percent (5%), the City shall hold a public hearing and determine if the City should collect the additional amount.

Following the determination, the City shall notify the Grantee of its intent to collect the increase Franchise Fee and Grantee shall have a reasonable time, not to be less than (90) days from receipt of notice from the City to effectuate any changes necessary to begin the collection of such increased Franchise Fee or notify the Grantee of its intent to not collect the increased fee. In the event that the City increases said Franchise Fee, the Grantee shall notify its Subscribers of the City's decision to increase said fee prior to the implementation of the collection of said fee from Subscribers as required by law.

10.7 Tax Liability. Payment of Franchise Fees to the Grantor shall be subject to applicable law.

SECTION 11

Transfer of Franchise

11.1 Franchise Transfer. The Franchise granted hereunder shall not be assigned, other than by operation of law or to an entity controlling, controlled by, or under common control with the Grantee, without the prior consent of the Grantor, such consent not to be unreasonably withheld or delayed. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of the Grantee in the Franchise or Cable System to secure indebtedness. Within thirty (30) days of receiving a request for transfer, the Grantor shall notify the Grantee in writing of any additional information it reasonably requires to determine the legal, financial and technical qualifications of the transferee. If the Grantor has not taken action on the Grantee's request for transfer within one hundred twenty (120) days after receiving such request, consent by the Grantor shall be deemed given.

SECTION 12

Records, Reports and Maps

12.1 Reports Required. The Grantee's schedule of charges for regular Subscriber service, its policy regarding the processing of Subscriber complaints, delinquent Subscriber disconnect and reconnect procedures and any other terms and conditions adopted as the Grantee's policy in connection with its Subscribers shall be filed with the Grantor upon request.

12.2 Records Required.

The Grantee shall at all times maintain:

- A. A record of all written complaints received regarding interruptions or degradation of Cable Service, which record shall be maintained for one (1) year.
- B. A full and complete set of plans, records and strand maps showing the location of the Cable System.

12.3 Inspection of Records. Grantee shall permit any duly authorized representative of the Grantor, upon receipt of advance written notice, to examine during normal business hours and on a non-disruptive basis any and all of Grantee's records maintained by Grantee as is reasonably necessary to ensure Grantee's compliance with the Franchise. Such notice shall specifically reference the subsection of the Franchise that is under review so that the Grantee may organize

the necessary books and records for easy access by the Grantor. The Grantee shall not be required to maintain any books and records for Franchise compliance purposes longer than three (3) years, except for service complaints, which shall be kept for one (1) year as specified above. The Grantee shall not be required to provide Subscriber information in violation of Section 631 of the Cable Act. The Grantor agrees to treat as confidential any books, records or maps that constitute proprietary or confidential information to the extent Grantee makes the Grantor aware of such confidentiality. If the Grantor believes it must release any such confidential books or records in the course of enforcing this Franchise, or for any other reason, it shall advise Grantee in advance so that Grantee may take appropriate steps to protect its interests. Until otherwise ordered by a court or agency of competent jurisdiction, the Grantor agrees that, to the extent permitted by State and federal law, it shall deny access to any of Grantee's books and records marked confidential, as set forth above, to any Person.

SECTION 13

Public. Education and Government ("PEG") Access Programming

13.1 Channel. At the time of entering into this Franchise Agreement, Grantor does not utilize a channel on the Cable System for original, locally-produced, non-commercial, video programming for Public, Education and Government ("PEG") access programming. Should the Grantor determine such need develops during the term of this Agreement, the Grantor has the option to request, upon one hundred twenty (120) days prior written notice, that the Grantee provide, and the Grantee agrees it shall provide, one (1) channel on the Cable System for the use by the Grantor for PEG Programming which shall be locally produced in Central Point Oregon, for public and educational access purposes and programming. The PEG channel may be placed on any tier of service available to all subscribers, including the digital tier. The Grantor shall utilize the PEG channel as follows: the Grantor shall program, at a minimum, all City Council regular meetings and Planning Commission regular meetings. If the PEG channel provided pursuant to this section is occupied by non-local, substantially duplicated or character-generated programming fifty (50%) percent of the time during "regular viewing hours" measured over any ten (10) consecutive week period, the Grantee shall have a right to a return of the PEG channel upon one hundred twenty (120) days' notice to Grantor of its intent to reclaim the PEG channel. For purposes of this subsection, "regular viewing hours" shall be the hours between 1 p.m. and 11 p.m., Monday through Friday, and between noon and midnight on weekends. A program may be repeated up to two (2) times after its first run during regular viewing hours before it is deemed "duplicated." The Grantor may request return of the PEG Channel used by the Grantee at any time, which request for return shall be accompanied by a showing that the Grantor's intended use for the PEG Channel will, or is reasonably likely to, meet the programming requirements set forth in this section. The Grantee shall, within ninety (90) days of the date of the written request cease use of and return the PEG Channel to the Grantor.

The Grantor agrees to provide the Grantee with a written annual report detailing PEG channel usage and efforts to increase the quality and quantity of video programming, due to the Grantee within one hundred twenty (120) days after the close of each calendar year.

13.2 Channel Viewing Area. In the event the Grantor exercises its option described in Section 13.1 herein, the Grantee shall use best efforts to make the PEG Channel available to Subscribers throughout the Service Area of the Grantor, as it exists on the Effective Date of the exercise of the Option.

13.3 PEG Access Grant. In the event the Grantor exercises its option to request a PEG channel and upon demonstrating that PEG capital support for PEG is reasonable to meet the demonstrated cable-related needs of the community considering the cost, the Grantor shall notify the Grantee in writing of these needs and the amount of capital support requested, at which time Grantor and Grantee will meet to discuss the amount of PEG capital support, which will not to exceed eleven thousand dollar \$11,000 in a one-time grant. Within ninety (90) days of such request, Grantee shall provide agreed upon payment. Grantor and Grantee acknowledge that PEG funds are only to be used for capital costs and not for operational costs. PEG capital support shall be for the exclusive use of the Grantor and shall not be used for purposes other than as described under Section 13 herein. The Grantor shall be responsible for installing, operating, maintaining and replacing the equipment purchased as necessary including, but not limited to transport from the Grantor's PEG facility to Grantee's headend, and any equipment at the Grantor's headend used exclusively for PEG. The Grantee is entitled to recover such capital costs from Subscribers if allowed by law. Grantor shall, at least annually, provide Grantee with a report, detailing how the capital PEG support funds were used. Grantor shall permit any duly authorized representative of the Grantee, upon receipt of advance written notice, to examine during normal business hours and on a non-disruptive basis, any and all records and equipment to ensure the Grantor's compliance with this section.

SECTION 14

Complimentary Cable Service to Public Schools and Libraries

14.1 The Grantee may provide on a voluntary basis, without charge and within the Service Area, service activated for Basic Cable Service to all elementary and secondary public school classrooms and public libraries subject to Section 6.

SECTION 15

Enforcement or Revocation

15.1 Notice of Violation. If the Grantor believes that the Grantee has not complied with the terms of the Franchise, the Grantor shall first informally discuss the matter with Grantee. If these discussions do not lead to resolution of the problem, the Grantor shall notify the Grantee in writing of the exact nature of the alleged noncompliance (the "Violation Notice").

15.2 Grantee's Right to Cure or Respond. The Grantee shall have thirty (30) days from receipt of the Violation Notice to (i) respond to the Grantor, contesting the assertion of noncompliance, or (ii) to cure such default, or (iii) if, by the nature of default, such default cannot be cured within the thirty (30) day period, initiate reasonable steps to remedy such default and notify the Grantor of the steps being taken and the projected date that they will be completed.

15.3 Public Hearing. If the Grantee fails to respond to the Violation Notice received from the Grantor, or if the default is not remedied within the cure period set forth above, the Council shall

schedule a public hearing if it intends to continue its investigation into the default. The Grantor shall provide the Grantee at least twenty (20) days prior written notice of such hearing, which specifies the time, place and purpose of such hearing, notice of which shall be published by the Clerk of the Grantor in a newspaper of general circulation within the Grantor in accordance with subsection 16.5 hereof. The Grantee shall have the right to present evidence and to question witnesses. The Grantor shall determine if the Grantee has committed a violation and shall make written findings of fact relative to its determination. If a violation is found, the Grantee may petition for reconsideration before any competent tribunal having jurisdiction over such matters.

15.4 Enforcement. Subject to applicable federal and State law, in the event the Grantor, after the hearing set forth in subsection 15.3 above, determines that the Grantee is in default of any provision of the Franchise, the Grantor may:

- A. Seek specific performance of any provision, which reasonably lends itself to such remedy, as an alternative to damages; or
- B. Commence an action at law for monetary damages or seek other equitable relief; or
- C. In the case of a substantial default of a material provision of the Franchise, seek to revoke the Franchise itself in accordance with subsection 15.5 below.

15.5 Revocation.

- A. Prior to revocation or termination of the Franchise, the Grantor shall give written notice to the Grantee of its intent to revoke the Franchise on the basis of a pattern of noncompliance by the Grantee, including one or more instances of substantial noncompliance with a material provision of the Franchise. The notice shall set forth the exact nature of the noncompliance. The Grantee shall have sixty (60) days from such notice to either object in writing and to state its reasons for such objection and provide any explanation or to cure the alleged noncompliance. If the Grantor has not received a satisfactory response from Grantee, it may then seek to revoke the Franchise at a public hearing. The Grantee shall be given at least thirty (30) days prior written notice of such public hearing, specifying the time and place of such hearing and stating its intent to revoke the Franchise.
- B. At the hearing, the Council shall give the Grantee an opportunity to state its position on the matter, present evidence and question witnesses, after which it shall determine whether or not the Franchise shall be revoked. The public hearing shall be on the record and a written transcript shall be made available to the Grantee within ten (10) business days. The decision of the Council shall be made in writing and shall be delivered to the Grantee. The Grantee may appeal such determination to an appropriate court, which shall have the power to review the decision of the Council *de novo*. The Grantee may continue to operate the Cable System until all legal appeals procedures have been exhausted.
- C. Notwithstanding the above provisions, the Grantee does not waive any of its rights under federal law or regulation.

- D. Upon revocation of the Franchise, Grantee may remove the Cable System from the Streets of the Grantor, or abandon the Cable System in place. Upon termination of this Franchise and after all legal appeals procedures have been exhausted and upon sixty (60) day notice to Grantee, the Grantee shall, within one (1) year or such further time as may be allowed by the Grantor subject to applicable law, either effectuate a transfer of its Cable System pursuant to Section 11 or remove from the streets, bridges and public places all of its property and equipment, and forthwith shall replace and restore the streets, bridges and public places to as good a condition as before said work was commenced. If the Grantee removes its property and equipment but fails to replace and restore the streets to as good a condition as before said work was commenced, the Grantor may do so at the expense of the Grantee. If the Grantee fails to remove all its property and equipment within the required time, the property and equipment shall be deemed abandoned. The Grantor may remove the abandoned property and equipment and replace and restore the streets, bridges and public places to as good a condition as before said work, all at the expense of the Grantee; or, the City Council may, by adoption of a resolution, choose to take title to or interest in the abandoned property and equipment or portions thereof and title thereto shall thenceforth be vested in the Grantor, and thereafter the Grantee shall not remove the property or equipment or exercise dominion over it, except that the portion, if any, of the property and equipment to which the Grantor has not elected to take title may be removed by the Grantor, and the streets, bridges and public places restored to as good a condition as before said work, all at the expense of the Grantee.

SECTION 16

Miscellaneous Provisions

16.1 Force Maieure. The Grantee shall not 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 defaults occurred or were caused by circumstances reasonably beyond the ability of the Grantee to anticipate and control. This provision includes, but is not limited to, severe or unusual weather conditions, fire, flood, or other acts of God, strikes, work delays caused by failure of utility providers to service, maintain or monitor their utility poles to which Grantee's Cable System is attached, as well as unavailability of materials and/or qualified labor to perform the work necessary.

16.2 Minor Violations. Furthermore, the parties hereby agree that it is not the Grantor's intention to subject the Grantee to penalties, fines, forfeitures or revocation of the Franchise for violations of the Franchise where the violation was a good faith error that resulted in no or minimal negative impact on the Subscribers within the Service Area, or where strict performance would result in practical difficulties and hardship to the Grantee which outweighs the benefit to be derived by the Grantor and/or Subscribers.

16.3 Action of Parties. In any action by the Grantor or the Grantee that is mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

16.4 Equal Protection. If any other provider of cable services or video services (without regard to the technology used to deliver such services) is lawfully authorized by the Grantor or by any other State or federal governmental entity to provide such services using facilities located wholly or partly in the public rights-of-way of the Grantor, the Grantor shall within thirty (30) days of a written request from Grantee, modify this Franchise to insure that the obligations applicable to Grantee are no more burdensome than those imposed on the new competing provider. If the Grantor fails to make modifications consistent with this requirement, Grantee's Franchise shall be deemed so modified thirty (30) days after the Grantee's initial written notice. As an alternative to the Franchise modification request, the Grantee shall have the right and may choose to have this Franchise with the Grantor be deemed expired thirty (30) days after written notice to the Grantor. Nothing in this Franchise shall impair the right of the Grantee to terminate this Franchise and, at Grantee's option, negotiate a renewal or replacement franchise, license, consent, certificate or other authorization with any appropriate government entity.

16.5 Notices. Unless otherwise provided by federal, State or local law, all notices, reports or demands pursuant to this Franchise shall be in writing and shall be deemed to be sufficiently given upon delivery to a Person at the address set forth below, or by U.S. certified mail, return receipt requested, nationally or internationally recognized courier service such as Federal Express or electronic mail communication to the designated electronic mail address provided below. Grantee shall provide thirty (30) days' written notice of any changes in rates, programming services or channel positions using any reasonable written means. As set forth above, notice served upon the Grantor shall be delivered or sent to:

Grantor: City Manager
City of Central Point
140 South 3rd Street
Central Point, OR 97502
Chris.Clayton@centralpointoregon.gov

Grantee: Charter Communications
Attn: Director, Government Affairs
222 NE Park Plaza Drive, #231
Vancouver, WA 98684
Marian.Jackson@Charter.com

Copy to: Charter Communications
Attn: Vice President of
Government Affairs
12405 Powerscourt Drive
St. Louis, MO 63131

16.6 Public Notice. Minimum public notice of any public meeting relating to this Franchise or any such grant of additional franchises, licenses, consents, certificates, authorizations, or exemptions by the Grantor to any other Person(s) to provide Cable Services, video services, or other television services utilizing any system or technology requiring use of the public rights of

way shall be by publication at least once in a newspaper of general circulation in the area at least ten (10) days prior to the meeting and a posting at the administrative buildings of the Grantor.

16.6.1 Grantor shall provide written notice to Grantee within ten (10) days of Grantor's receipt from any other Person(s) of an application or request for a franchise(s), license(s), consent(s), certificate(s), authorization(s), or exemption(s) to provide Cable Services, video services, or other television services utilizing any system or technology requiring use of the public rights of way. Any public hearings to consider such application or request shall have the same notice requirement as outlined in Paragraph 16.5 above.

16.7 Severability. If any section, subsection, sentence, clause, phrase, or portion of this Franchise is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Franchise.

16.8 Entire Agreement. This Franchise constitute the entire agreement between Grantee and the Grantor and they supersede all prior or contemporaneous agreements, representations or understandings (whether written or oral) of the parties regarding the subject matter hereof.

16.9 Administration of Franchise. This Franchise is a contract and neither party may take any unilateral action that materially changes the explicit mutual promises and covenants contained herein. Any changes, modifications or amendments to this Franchise must be made in writing, signed by the Grantor and the Grantee. Any determination by the Grantor regarding the interpretation or enforcement of this Franchise shall be subject to de novo judicial review.

16.10 Effective Date. The Franchise granted herein will take effect and be in full force from such date of acceptance by Grantee recorded on the signature page of this Franchise. **This Franchise shall expire on July 28, 2026**, unless extended in accordance with Section 2.2 of the Franchise or by the mutual agreement of the parties. If any fee passed through to Subscribers is required by this Franchise, other than the franchise fee, such fee shall go into effect sixty (60) days after the Effective Date of this Franchise.

16.11 Renegotiation. In the event that any provision of this franchise becomes illegal, invalid, or unenforceable and the City Council or the Grantee expressly finds that such provision constituted a consideration material to this franchise, then the Grantor and the Grantee may mutually agree to renegotiate the terms of this franchise.


16.12 Remedies Not Exclusive. All remedies and penalties under this ordinance, including termination of the franchise, are cumulative, and the recovery or enforcement of one is not a bar to the recovery or enforcement of any other such remedy or penalty. The remedies and penalties contained in this ordinance, including termination of the franchise, are not exclusive, and the Grantor and Grantee reserve the right to avail themselves of any and all remedies available at law or in equity. Failure to enforce shall not be construed as a waiver of a breach of any term, condition or obligation imposed upon the Grantee by or pursuant to this ordinance shall not be a waiver of any other or subsequent or future breach of the same or of any other term, condition or obligation, or as a waiver of the term, condition or obligation itself. However, the parties hereby agree that it is not the Grantor's intention to subject the Grantee to penalties, fines, forfeitures or revocation of the Franchise for violations of the Franchise where the violation was a good faith error that resulted in no or minimal negative impact on the Subscribers within the Service Area,

or where strict performance would result in practical difficulties and hardship to the Grantee which outweighs the benefit to be derived by the Grantor and/or Subscribers.

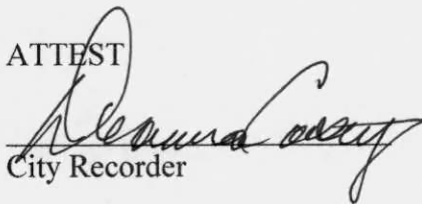
16.13 Governing Law: Venue. Except as to matters which are governed by federal law, this Franchise Agreement will be governed by and construed in accordance with the laws of the State of Oregon. Venue for any legal action arising under this Franchise Agreement shall be in the State Circuit Court of Jackson County or in the United States Court for the District of Oregon.

Passed by the Council and signed by me in authentication of its passage this 28th day of July, 2016.

City of Central Point, Oregon

Signature: 
Mayor Hank Williams

ATTEST


City Recorder

Accepted this ___ day of _____, 2016, subject to applicable federal, State and local law.

Falcon Video Communications, L.P.
By: Charter Communications VII, LLC, its General Partner
By: Charter Communications, Inc., its Manager

Signature:
Mark E. Brown, Vice President, Government Affairs