

CITY OF FLORENCE
RESOLUTION NO. 5, SERIES 2018

A Resolution granting a limited, non-exclusive franchise to Falcon Cable Systems Company II, L.P., locally known as Charter Communications, to operate and maintain a cable communications system to provide cable services within the City Limits of Florence.

RECITALS:

1. The Florence City Council has the authority under the Florence City Code, its Charter, the Oregon Constitution, and State and Federal law, to grant franchises for the use and occupation of its Rights of Way.
2. Florence City Code (FCC) Title 8, Chapter 7: Right of Way Management, established through Ordinance No. 5, Series 2017, governs the use and occupation of the Public Right of Way by Communications Providers and applies to this Franchise Agreement.
3. Falcon Cable Systems Company II, L.P., locally known as Charter Communications, (hereinafter "Grantee") currently operates a non-exclusive franchise within the City of Florence to operate and maintain a cable communications system.
4. The Grantee's franchise was approved on December 2, 2003, and the rights, privileges and authority granted within it contained an initial term of ten (10) years, with an expiration of December 1, 2013.
5. The City of Florence (hereinafter "City") and Grantee have been negotiating new franchise terms since 2013.
6. The terms of the 2003 franchise agreement have applied to the use of the right-of-way by Grantee during the franchise negotiations.
7. The City finds that 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.
8. Having afforded the public adequate notice and opportunity for comment, the City desires to enter into this Franchise with Grantee for the construction and operation of a cable system for cable services on the terms set forth within the Franchise Agreement.
9. The City and Grantee have complied with all federal and State-mandated procedural and substantive requirements pertinent to this franchise renewal.

10. Ordinance No. 1, Series 2018, repealed Ordinance No. 24, Series 2003, an ordinance granting a non-exclusive franchise to Falcon Cable Systems Company II, L.P. to operate and maintain a cable communications system within the City limits of Florence, and declaring an emergency.


Based on these findings,

THE CITY COUNCIL OF THE CITY OF FLORENCE RESOLVES AS FOLLOWS:

1. The terms of the Franchise Agreement with Grantee are shown in Exhibit A.
2. Grantor hereby approves the Franchise Agreement and the terms in Exhibit A.
3. This Resolution takes effect immediately upon adoption.

ADOPTION:

This Resolution is passed and adopted on the 2th day of April, 2018.



Joe Henry, Mayor Attest:



Kelli Weese, City Recorder

FRANCHISE AGREEMENT
CITY OF FLORENCE, OREGON

This Franchise Agreement (“Franchise”) is between the City of Florence, 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 Grantor and Grantee agree as follows:

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. “Council” shall mean the governing body of the Grantor.
- C. “Cable Act” shall mean the applicable provisions of the Cable Communication Policy Act of 1984, as amended, 47 U.S.C. §§ 521, *et. seq.*
- D. “Channel” shall mean a portion of the electromagnetic frequency spectrum which is used in a cable system and which is capable of delivering a television channel.

- E. "Equipment" shall mean any poles, wires, cable, underground conduits, manholes, and other conductors, fixtures, equipment and other facilities used for the maintenance and operation of the Cable System.
- F. "FCC" shall mean the Federal Communications Commission and any successor governmental entity thereto.
- G. "Franchise" or Franchise Agreement shall mean the non-exclusive rights granted pursuant to this Franchise to construct operate and maintain a Cable System along the Right of Ways within all or a specified area in the Franchise Area.
- H. "Franchise Area" shall mean the geographic boundaries of the Grantor, and shall include any additions thereto by annexation or other legal means.
- I. "Generally Applicable" or "Generally Applied" shall mean that the City ordinance or rule in question is lawful, non-discriminatory, and is consistently and uniformly applied pursuant to applicable state or federal statutes or regulations.
- J. "Gross Revenue" means any revenue, as determined in accordance with generally accepted accounting principles, received by the Grantee from the operation of the Cable System to provide Cable Services in the Franchise Area including, but not limited to amounts for: Cable Services, premium cable services, advertising, home shopping channels, installation fees and all leased access payments; provided, however, that such phrase shall not include: (1) any taxes, fees or assessments collected by the Grantee from Subscribers for pass-through to a government agency, including, without limitation, the FCC user fee, the Franchise Fee, or any sales or utility taxes; (2) unrecovered bad debt; (3) credits, refunds and deposits paid to Subscribers; and (4) any exclusions available under applicable State law.
- K. "Person" shall mean an individual, partnership, association, organization, corporation, trust or governmental entity.
- L. "Service Area" shall mean the area described in subsection 6.1.
- M. "State" shall mean the State of Oregon.
- N. "Right of Way" shall include each of the following located within the Franchise Area: public streets, roadways, highways, bridges, land paths, boulevards, avenues, lanes, alleys, sidewalks, circles, drives, easements, 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 Franchise Area, which is under the jurisdiction or control of Grantor to the extent Grantor has the right, title, interest and/or authority to grant a Franchise to occupy and use such

Right of Way, and shall entitle the Grantee to the use thereof for the purpose of installing, operating, repairing and maintaining the Cable System.

- O. "Subscriber" shall mean any Person lawfully receiving Cable Service from the Grantee.

SECTION 2 **Grant of Franchise**

2.1 Grant. Subject to the terms and conditions of this Franchise Agreement, 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 Right of Way, now in existence and as may be created or established during its terms; all Equipment.

2.2 Term. The Franchise and the rights, privileges and authority hereby granted shall be for a term of ten (10) years, commencing on the Effective Date of this Franchise as set forth in Section 16.10.

2.3 Police Powers. Notwithstanding any other provision of this Franchise, Grantee's rights are subject to the police powers of the Grantor to adopt and enforce ordinances necessary for the safety, health and welfare of the public ("Police Powers"). The Grantee agrees to comply with the terms of any Generally Applicable local ordinance which is lawfully adopted under Grantor's Police Power Authority.

2.4 Franchise Required. No Cable System shall be allowed to occupy or use the Right of Way of the Service Area or be allowed to operate to provide Cable Service without a Franchise.

SECTION 3 **Franchise Renewal**

3.1 Procedures for Renewal. The Grantor and the Grantee agree that any proceedings undertaken by the Parties 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, defend the Grantor, its officers, boards, commissions, agents, and employees for all claims for injury, losses and expenses, or damages, to any Person or property arising out of, related to, or caused by the negligence or wrongful acts, failures to act, or misconduct of Grantee in the construction or operation of the Cable System and in the event of a determination of liability shall indemnify and hold Grantor, its officers, boards, commissions, agents, and employees harmless from any and all liabilities, claims, demands, or judgments growing out of any injury, losses and expenses, or damages, including any attorneys fees, to any Person or property as a result of the negligence or wrongful acts, failures to act, or misconduct 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 ten (10) 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 represent the Grantor. 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	\$2,000,000 per occurrence, Combined Single Limit (C.S.L.) \$2,000,000 General Aggregate
Auto Liability including coverage on all owned, non-owned hired autos Umbrella Liability	\$1,000,000 per occurrence C.S.L.
Umbrella Liability	\$2,000,000 per occurrence C.S.L.

- B. The Grantor shall be added as an additional insured for claims arising out of work performed by Charter to the above Commercial General Liability, Auto Liability and Umbrella Liability insurance coverage.
- C. The Grantee shall furnish the Grantor with current certificates of insurance evidencing such coverage upon request.
- D. The limits of insurance as provided herein shall be subject to any changes regarding the maximum limits of tort liability for municipalities in the State of Oregon during the term of this Franchise.

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 make Cable Service distributed over the Cable System available to every residence within the Service Area. As used in this Franchise, "Service Area" is any area where there is a minimum density of at least thirty (30) residences per linear strand mile of cable as measured from Grantee's closest trunk line or distribution cable that is actively delivering Cable Service as of the date of such request for service. If such residence is located within one hundred twenty five (125) feet of Grantee's feeder cable, the Cable Service will be provided at Grantee's published rate for standard installations. Notwithstanding the foregoing, the Grantee shall have the right, but not the obligation, to extend the Cable System into any portion of the Service Area where another operator is providing Cable Service, into any annexed area which is not contiguous to the present Service Area of the Grantee. Grantee need not make an extension to any area which is financially or technically infeasible, if it provides documentation substantiating such infeasibility to Grantor. 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. Nothing herein shall be construed to limit the Grantee's ability to offer or provide bulk rate discounts or promotions.

6.2 Subscriber Charges for Extensions of the Cable System. No Subscriber shall be refused service arbitrarily. However, if an area does not meet the density requirements of Section 6.1 above, the Grantee shall only be required to extend the Cable System to Subscribers in that area if the Subscribers are willing to share the capital costs of extending the Cable System. The Grantee may require that payment of the capital contribution in aid of construction borne by such potential Subscribers be paid in advance. Subscribers shall also be responsible for any standard/non-standard installation charges to extend the Cable System from the tap to the residence. Grantee may require residents who request service but whose residence is further than one hundred twenty five (125) feet from an existing feeder cable (ie: outside the Service Area) to equally share the cost of an extension of service greater than the standard cost of a service extension of one hundred twenty five (125) feet. Standard installation costs may also be required of such subscribers.

6.3 New Developments Underground. In cases of new construction or new property development, where other utilities are required to be placed underground, Grantee shall place its facilities underground at Grantee's sole expense. If Grantor issues a permit for open trenching to any developer, Grantor agrees to use reasonable efforts encourage developer to coordinate construction and undergrounding schedules for the open trenching such that all utilities in the Right of Way, including Grantee, shall have at least thirty (30) days prior notice of such construction or undergrounding, and of the particular dates on which open trenching will be available for Grantee's installation of Grantee facilities, which shall be constructed, placed or provided at Grantee's sole expense.

6.4 Annexation. The Grantor shall within 30 days after the annexation is complete 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 sixty (60) days from the date of the written notice from the Grantor, 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 Franchise Area. Grantee shall within ninety (90) days after receipt of the annexation notice, begin calculating the Grantor franchise fees on revenue received from the operation of the Cable System to provide Cable Services in any area annexed by the Grantor if the Grantor has provided a written annexation notice as provided in this Section. Grantor will include such notice in an Excel format or another mutually-agreeable format. If the annexation notice does not comply with this Section, Grantee shall pay franchise fees 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 16 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 and Grantor's Generally-Applicable ordinances, rules and regulations adopted pursuant to its lawful Police Powers. In the event of conflict between the NESC and Grantor's ordinances, rules and regulations, the NESC shall prevail.

7.2 Construction Standards and Requirements. All of the Grantee's Equipment, shall be installed, located, erected, constructed, reconstructed, replaced, removed, repaired, maintained and operated in accordance with good engineering practices and performed by experienced and experienced maintenance and construction personnel.

7.3 Safety. The Grantee shall at all times employ ordinary care and shall use industry- 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 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 provided Grantee is able to access existing poles, conduits, or other facilities on reasonable terms and conditions.

8.2 Underground Construction. The Equipment of the Grantee that can be reasonably installed underground, shall be installed, at Grantee's sole expense, underground in those Service Areas where existing telephone and electric services (other than high-voltage electric lines) 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 Equipment 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 underground its Equipment that can reasonably be installed underground.

8.3 Construction Codes and Permits. Grantee shall obtain all legally required generally applicable permits and pay all legally required Generally Applicable permit fees, before commencing any work requiring a permit, including the opening or disturbance of any Street within the Franchise Area. Grantee shall adhere to the terms of all the permits and Grantor codes, ordinances, rules and regulations currently or hereafter applicable to construction, operation and /or maintenance of the Cable System within the Service Area, provided that such codes are of General Applicability and adopted pursuant to Grantor's Police Powers.. The Grantor shall administratively assist the Grantee in securing any permits required.

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 Right of Way by the Grantee shall be placed in such a manner as to comply with applicable law and shall not interfere with usual travel on such public way.

8.5 Restoration of Public Ways. Grantee shall, promptly (or as soon as practicable in the event weather or other events beyond Grantee's control prevent such prompt restoration) and at its own expense, restore any damage or disturbance caused to the Right of Way or 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 Right of Way 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 fire or disaster was caused by gross negligence of the Grantor.

8.7 Tree Trimming. In an emergency that threatens the safety or integrity of Grantee's Equipment, 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. In all other circumstances, Grantee shall provide Grantor with ten (10) days' written notice prior to such trimming.

8.8 Removal or Relocation for the Grantor. The Grantee shall, upon receipt of 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 Grantor's Generally-Applicable rules or ordinances and at Grantee's sole cost. Should Grantee fail to remove or relocate as required by this Section, Grantor may cause such work to be done by a qualified contractor after providing thirty (30) days written notice to Grantee, and the costs thereof, including the reasonable costs incurred due to the delay, shall be paid by Grantee, subject to any applicable reimbursement required in Section 8.10.

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. Grantee shall be afforded reasonable advanced written notice from the person holding a lawful permit. Nothing in this section prevents Grantee from requesting reimbursement or compensation from a third party for the cost of such relocation. 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. In the event that Grantor reimburses any telephone or electric utility for undergrounding, relocation or removal of Facilities required by Grantor, Grantor shall also reimburse Grantee for similar undergrounding, relocation or removal required by Grantor under this Section 8, contingent upon the following conditions: 1) such reimbursement is mandated by State or federal law; or 2) such reimbursement is not limited or prohibited by a fund, loan, or grant used to fund the reimbursement.

8.11 Emergency Use. Grantee agrees at all times to comply with federal and state Emergency Alert System ("EAS") rules as required in 47 C.F.R. Part 11 or as amended. If the Grantee provides an 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 & Rates

9. **1 Phone Service.** The Grantee shall provide either a staffed office within the Service Area or shall maintain a staffed, toll-free telephone number and a phone service operated such that complaints and requests for repairs or adjustments may be received 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 15.2 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 five percent (5%) of the annual Gross Revenue. Such payment shall be in addition to taxes or fees 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. If Cable Services and non-Cable Services are bundled together and offered to Subscribers for one price, then in accordance with GAAP, Grantee shall account for the revenue from such packages using the retail rate methodology which allocates the bundle discount by the proportion of the total retail rate each billing component represents. Grantee shall not allocate revenue between Cable Services and non-Cable Services for the purposes of evading or reducing its Franchise fee obligations. In the event the Cable Act is amended to modify the current cap on franchise fees to an amount greater than five percent (5%) of Gross Revenues, Grantee agrees and shall pay the new maximum amount consistent with federal law. Such increased fee shall take effect upon sixty (60) days written notice of the adoption of a City Council resolution to increase the franchise fee to the new maximum amount.

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 and transmitted by electronic funds transfer to a bank account designated by Grantor. 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 Revenue amounts 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 Limitation on Recovery. The period of limitation for recovery of any Franchise Fee payable hereunder shall be five (5) years from the date on which the payment was due. In the event that a Franchise Fee payment owed under this Franchise Agreement is not made on or before the dates specified herein, interest shall accrue on the unpaid fee at a rate of the Prime Rate plus two percent (2%) commencing with the fifteenth day after the fee shall be due.

10.5 Audit. Grantor may review and/or audit Grantee's records to ensure the correct calculation of Gross Revenues and payment of Franchise Fees. Grantee shall provide such records to Grantor or its designee, upon request by and at no charge to Grantor, subject to Grantor and/or designee signing Grantee's non-disclosure agreement. If there is a dispute as to whether a particular item of revenue is within the scope of the term "Gross Revenues" and Grantee withholds revenue records on the ground that the revenues are not subject to the Franchise fee, Grantee agrees that it will provide a certified statement describing the nature of the revenues contained in the records withheld. In the event that any Franchise fee is underpaid, Grantee shall pay interest as required in Section 10.2. Subject to applicable law, if the audit discloses an underpayment by an amount in excess of seven thousand dollars (7,000), Grantee will reimburse Grantor for all reasonable audit costs. Said audit shall be conducted no more often than annually, and the audit period shall not be any greater than the previous five (5) years. The audit shall not last longer than six (6) months. Any undisputed additional amounts due to the Grantor as a result of the audit shall be paid within sixty (60) days following written notice to Grantee by the Grantor, which notice shall include a copy of the audit findings.

SECTION 11

Transfer of Franchise

11.1 Assignment Consent; 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 written consent of the Grantor, such consent not to be unreasonably withheld or delayed. Grantor may condition its consent upon terms and conditions that relate to the legal, financial, or technical qualifications of the proposed transferee or assignee. 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 and Grantee has provided all information requested by Grantor, then Grantor's consent shall be deemed given. All assignees or transferees must agree to assume all obligations and responsibilities within this Franchise Agreement.

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 at a mutually-agreeable location 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 Section 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 (1) books and records showing the calculation of Gross Revenues and payment of Franchise Fees, which shall be kept for five (5) years; and (2) 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. Subject to Oregon's public records law, the Grantor agrees to treat as confidential any books, records or maps that constitute proprietary or confidential information to the extent Grantee make 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. Grantee agrees to pay costs incurred by Grantor due to the foregoing denial of books and records, including reasonable attorney fees, in responding to public record requests for Grantee's books and records and/or defending a denial of such public records requests.

SECTION 13
Public, Education and Government (PEG) Channel

13.1 Use of Public, Education and Government (PEG) Channel. Grantee shall provide one (1) channel on the Cable System, for the use by Grantor or its designees for locally-produced, non-

commercial video programming for Public, Education and Government (“PEG”) access programming. Subject to applicable law, all Subscribers within the Service Area shall have access to the PEG channel.

13.2 Management and Control of PEG Channel. Grantor reserves the right to permit a third party to operate and manage the PEG channel on the Grantor’s behalf. Subject to the foregoing, Grantor retains sole and exclusive responsibility for operating and managing the PEG channel.

13.3 Programming Requirements. The Grantor shall provide programming on the PEG Channel to occupy at least sixty percent (60%) of the hours between 9 a.m. and 5 p.m. for any (8) consecutive week period.

13.4 Annual Report to Grantee. Upon Grantee’s request and no more than once annually, Grantor agrees to provide Grantee with a written report detailing PEG Channel usage. The annual report shall contain, at a minimum, the average percent of PEG programming on any consecutive 8 week period consistent with the terms provided herein. Grantor shall provide at Grantee’s request, but no more than annually, the annual, non-capital costs directly attributable to providing the PEG channel.

SECTION 14

Free Drops and Cable Service

14.1 Service to Public Buildings. Subject to applicable law, Grantee shall continue to provide, without charge, one (1) Standard Installation, activated outlet and equipment, for Basic and Expanded Cable Service to all elementary and secondary public school instructional buildings and public library buildings within the Franchise Area and located within one hundred twenty-five (125) feet of Grantee’s distribution plant. Additionally, Grantee shall provide, without charge, one Standard Installation, activated outlet and equipment for Basic Cable Service to 4 (four) publicly-owned or publicly-operated buildings within the Franchise Area, up to a maximum of (4) total locations. The locations identified below shall be within one hundred and twenty-five (125) feet of Grantee’s feeder cable. The Cable Service provided pursuant to this Section shall not be used for commercial purposes and such outlets shall not be located in areas open to the public. The Grantor shall take reasonable precautions to prevent any inappropriate use of or loss or damage to the Grantee’s Cable System.

4 Public Buildings:

- A. City of Florence, 250 Highway 101, Florence, OR
- B. SVFR Station #2 Siuslaw, 251 Laurel St., Florence, OR
- C. Police Dept. Florence, 900 Greenwood St., Florence, OR
- D. Siuslaw Valley Fire Station #1, 2625 Highway 101, Florence, OR

E. School/Library Buildings:

- A. Siuslaw High School, 2975 Oak St., Florence, OR
- B. Siuslaw Elementary School, 2221 Oak Street Florence, OR. 97439
- C. Siuslaw Middle School, 2525 Oak Street, Florence, OR. 97439
- D. Siuslaw Public Library, 1460 9th St., Florence, OR

SECTION 15
Enforcement and 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. Unless Grantor is pursuing a Revocation pursuant to Section 15.5 below, 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 such default, it cannot be cured within the thirty (30) day period, request from Grantor additional time to remedy the default, 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, which in no case shall exceed a total of sixty (60) days from Grantor’s notice without prior approval from Grantor.

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. Unless Grantor is pursuing a Revocation pursuant to Section 15.5 below, 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 publicized and noticed in the same manner as all public meetings are publicized and noticed and in compliance with Oregon public meetings law. At the hearing, the Council shall give the Grantee an opportunity to state its position on the matter, after which it shall determine if a breach or violation has occurred and/or whether or not the Franchise shall be revoked. The public hearing shall be on the record and, at the Grantee’s request and sole expense, the City shall provide a written transcript 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 using a standard of deference consistent with federal and Oregon law. The Grantee may continue to operate the Cable System until all legal appeals procedures have been exhausted.

15.4 Enforcement. Subject to applicable federal, State and Generally Applicable City law, in the event the Grantor, after the hearing set forth in subsections 15.3 or 15.5, 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, revoke the Franchise itself in accordance with subsection 15.5 below.

15.5 Revocation Hearings: Standards, Notice, and Opportunity to Cure

- A. Prior to revocation of the Franchise, the Grantor shall give written a Revocation Notice to the Grantee, which shall state 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 material and substantial 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 within sixty days, it may then revoke the Franchise. If the Grantee responds within sixty days and such response is not satisfactory to Grantor, Grantor shall schedule a public City Council hearing no earlier than 30 days from the date of Grantee's response. 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 its intent to revoke the Franchise. The public hearing shall be conducted in accordance with requirements of Section 15.3 above.
- B. Notwithstanding the above provisions, the Grantee and Grantor reserve all of their rights under federal or state and City law or applicable regulation.
- C. Upon revocation of the Franchise, Grantee may remove the Cable System from the Right of Way of the Grantor; or may abandon the Cable System in place with written permission from Grantor.

SECTION 16

Miscellaneous Provisions

16.1 Reservation of Rights and Compliance with Laws. Grantor and Grantee reserve all applicable rights under state or federal law and shall conform to all state and federal laws regarding right of way occupancy, Cable Service, and cable television as they become effective. Grantee shall also conform with all Generally Applicable Grantor ordinances, resolutions, rules and regulations heretofore or hereafter adopted or established during the entire term of the Franchise.

16.2 Force Majeure. Neither Grantor or Grantee 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 defaults occurred or were caused by circumstances reasonably beyond the ability of the Grantor or 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 if such delays were reasonably beyond the ability of the Grantor or Grantee to foresee or control, as well as unavailability of materials and/or qualified labor to perform the work necessary.

16.3 Minor Violations. The Parties agree that it is neither Parties' intention to subject the other Party to penalties, fines, forfeitures, revocation, or termination of the Franchise for violations of the Franchise where the violation was a good faith error that resulted in no or minimal negative material impact on the other Party or on Subscribers within the Service Area.

16.4 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.

16.5 Competitive Equity. The Grantee acknowledges and agrees that Grantor reserves the right to grant one or more additional franchises to construct a Cable System to provide a Cable Service within the Franchise Area. If any such competitive Cable Services franchise is granted by Grantor which contains more favorable or less burdensome material terms or conditions than this Franchise, Grantor agrees that it shall renegotiate this Franchise to include substantially similar material terms or conditions to Grantee. In determining whether the material terms of this Agreement are more burdensome or less favorable than the material obligations of a competing wireline Cable Service provider's Agreement, the Parties and a court of competent jurisdiction shall consider the comparative material obligations in their totality.

Grantor shall abide by the notice requirements in Oregon public meetings law for any public meeting pertaining to the granting of another Cable franchise. Grantee may request to be included on such notices, per Oregon law.

In the event that a non-franchised multichannel video programming distributor with facilities located in Grantor's Streets provides service to the residents of Grantor, the Grantee may request Franchise amendments. In requesting amendments, the Grantee shall file a petition seeking to amend the Franchise. Such petitions shall: (1) indicate the presence of a nonfranchised competitor; (2) identify the basis for Grantee's belief that Grantee is at a competitive disadvantage; and (3) identify the regulatory burdens requested to be amended or repealed.

16.6 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:

As set forth above, notice served upon the Grantor shall be delivered or sent to:

Attn: City Manager City
of Florence
250 Hwy. 101
Florence, OR 97439
erin.reynolds@ci.florence.or.us

And every notice served upon Grantee shall be delivered or sent to:

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

With a copy to:

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

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 and any Exhibits hereto 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 express 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.

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.

16.11 No Third Party Beneficiaries. Nothing in this Franchise is intended to confer third-party beneficiary status on any person other than the parties to this Franchise to enforce the terms of this Franchise.

Considered and approved this ___ day of _____, 2018.

City of Florence, Oregon

Signature: _____

Name/Title: _____

Accepted this ___ day of _____, 2018, subject to applicable federal, State and local law.

Falcon Cable Systems Company II, L.P.

By: Charter Communications VII, LLC, its General Partner By:
Charter Communications, Inc., its Manager

By: _____

Paul Abbott
Vice President, Local Government Affairs & Franchising
Charter Communications