

2011-000828

Klamath County, Oregon



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01/24/2011 10:11:40 AM

Fee: \$57.00

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

Charter Communications
Attn: MDU Department
Address: 9335 Prototype Drive
Reno, NV 89521

Above for recorders use only

NONEXCLUSIVE INSTALLATION AND SERVICE AGREEMENT

This Installation and Service Agreement ("Agreement") between **Falcon Cable Systems Company II, LP** ("Operator") and **F.B. Owen, Inc.** ("Owner") is dated this 1st day of August, 2010 ("Effective Date"). Capitalized terms used in this Agreement shall have the same meaning as specified in the "Basic Information" section below.

| BASIC INFORMATION | |
|---|--|
| Premises (or Property) (further described in Exhibit A): | |
| Premises Name: <u>Aspen Mobile Village</u> | Number of Units: <u>83</u> |
| Street Address: <u>3950 Homedale Road</u> | |
| City/State/Zip: <u>Klamath Falls, OR 97603</u> | |
| Agreement Term: The period starting on the Start Date and ending on the Expiration Date. The Agreement Term shall automatically be renewed for additional successive terms of two (2) years unless either party provides written notice of termination not less than 6 months prior to the end of the Agreement Term then in effect. | |
| Start Date: <u>August 1, 2010</u> | Expiration Date: <u>July 31, 2020</u> |
| Services: Services shall mean all lawful communications services (including video/cable services) that Operator may provide. | |
| Equipment: All above-ground and underground coaxial cables, fiber, internal wiring, conduit, electronics and/or any other equipment or facilities necessary for, installed by, and/or used by Operator (or its predecessor(s)-in-interest) to provide the Services. The Equipment extends from the external boundary lines of the Premises up to and including the outlets in each unit. | |

1. Grant. In consideration of the mutual promises and other consideration set forth herein, the sufficiency of which is hereby acknowledged, Owner grants Operator the right (including ingress and egress) to install, operate, improve, remove, repair and/or maintain its Equipment within the Premises. Upon termination of this Agreement, Operator shall have the right to remove its Equipment, as applicable, provided that any Equipment that Operator does not remove within 90 days of such termination, shall be deemed abandoned and become the property of the Owner. This Agreement may be recorded. This rights granted hereunder shall run with the land and shall bind and inure to the benefit of the parties and their respective successors and assigns.

2. Services; Equipment. Operator shall have the (i) nonexclusive right to offer and (ii) exclusive right to market the Services to residents of the Premises. Operator will install, maintain, and/or operate the Equipment in accordance with applicable law. The Equipment shall always be owned by and constitute the personal property of the Operator, and Owner acknowledges Operator's exclusive right to control and use its Equipment.

Without limiting Operator's exclusive rights to use its Equipment, should an antenna, signal amplification system or any other non-Operator facilities located either on the Premises or any property controlled by Owner in proximity to the Premises interfere with the provision of Operator's Services, Owner shall eliminate such interference immediately. In the event (i) installation, repair, maintenance, or proper operation of the Equipment, and/or unhindered provision of the Services is not possible at any time as a result of interference, obstruction, or other condition not caused by Operator, or (ii) such interference, obstruction, or other condition (or the cause thereof) will have negative consequences to Operator's personnel safety or the Equipment, as Operator may determine in its sole discretion, Operator may terminate this Agreement without liability upon written notice to Owner.

3. Owner represents and warrants that it is the legal owner of and the holder of fee title to the Premises; that it has the authority to execute this Agreement. The person signing this Agreement represents and warrants that he/she is Owner's authorized agent with full authority to bind Owner hereto. If any one or more of the provisions of this Agreement are found to be invalid or unenforceable, such invalid provision shall be severed from this Agreement, and the remaining provisions of this Agreement will remain in effect without further impairment.

4. In the event of a default by a party hereunder in addition to rights available at law or in equity, the non-defaulting party may (i) terminate the Agreement after 30 days prior written notice, unless the other party cures or commences to cure such breach during such 30-day period and diligently proceeds with such cure (exercising commercially reasonable efforts). Neither party shall be liable to the other party for any delay or its failure to perform any obligation under this Agreement if such delay or failure is caused by the occurrence of any event beyond such party's reasonable control.

5. Each party shall indemnify, defend and hold harmless the other against all liability, claims, losses, damages and expenses (collectively, "Liability"), but only to the extent that such Liability arises from any negligent or willful misconduct, breach of this Agreement, or violation of a third party's rights or applicable law on the part of the party from whom indemnity is sought. Each party seeking such indemnification shall use reasonable efforts to promptly notify the other of any situation giving rise to an indemnification obligation hereunder, and neither party shall enter into a settlement that imposes liability on the other without the other party's consent, which shall not be unreasonably withheld.

6. Notwithstanding anything to the contrary stated hereunder, Operator will not be liable for any indirect, special, incidental, punitive or consequential damages, including, but not limited to, damages based on loss of service, revenues, profits or business opportunities.

IN WITNESS WHEREOF, the parties have set their hands on the date indicated in their respective acknowledgments.

OPERATOR

Falcon Cable Systems Company II, LP

By: Charter Communications, Inc., its Manager

By: 

Printed Name: Frank Antonovich

Title: Vice President/General Manager

Date: 7-7-10

Address: 9335 Prototype Drive
Reno, NV 89521

OWNER

F.B. Owen, Inc.

By: 

Printed Name: Fred Thomas Owen, Jr.

Title: President

Date: 7-15-2010

Address: 5280 Crater Lake Avenue, Suite 102
Central Point, OR 97502

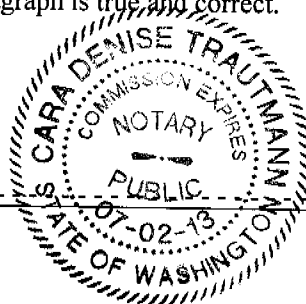
STATE OF Washington)
COUNTY OF Clark)

On 9/7/10 before me, Cara Trautmann Notary Public, personally appeared Frank Ammon who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Washington that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Cara Denzel Trautmann



STATE OF Oregon)
COUNTY OF Jackson)

On July 15, 2010 before me, Diana Jacobsen Notary Public, personally appeared Fred Thomas Owen Jr. who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Oregon that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Diana Jacobsen

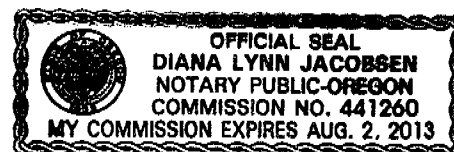


EXHIBIT "A"
Legal Description of Premises

PARCEL 1:

A parcel of land being a portion of the NW1/4 SE1/4 Section 11, Township 39 South, Range 9 East, Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Beginning at the Northeast corner of the S1/2 N1/2 NW1/4 SE1/4 of Section 11, Township 39 South, Range 9 East of the Willamette Meridian; thence South along the center line of Homedale Road 238 feet; thence West 30 feet to a point on the Westerly right of way line of Homedale Road to the True Point of Beginning; thence West 534 feet to a point; thence South to the North line of that tract of land described in Deed Volume 267 at page 496 Deed Records of Klamath County, Oregon, thence Easterly along the Northerly line of said Deed Volume 267 at page 496 and also along the North line of that tract described in Volume M67 at page 7962, Microfilm Records of Klamath County, Oregon, to the Westerly right of way line of Homedale Road; thence North to the point of beginning.

PARCEL 2:

A parcel of land being a portion of the NW1/4 SE1/4 of Section 11, Township 39 South, Range 9 East, Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Beginning at the NE corner of the S1/2 N1/2 NW1/4 of the SE1/4 of Section 11, Township 39 South, Range 9 East, Willamette Meridian, Klamath County, Oregon; thence South 150 feet to a point on the centerline of Homedale Road, thence West 30 feet to the true point of beginning; thence South 88 feet, thence West 534 feet, thence South to the North line of a tract of land described in Volume 267 at page 496, Deed Records of Klamath County, Oregon; thence West, to the West line of the NW1/4 SE1/4 of said Section, thence North to the NW corner of the S1/2 N1/2 NW1/4 SE1/4, thence East to the NW corner of that tract of land described in Volume 259 at page 185, Deed Records of Klamath County, Oregon; thence South 150 feet, thence East 534 feet to the point of beginning.

PARCEL 3:

The West 324 feet of the following described real property:

Beginning at the Northeast corner of the S1/2 N1/2 NW1/4 SE1/4 of Section 11, Township 39 South, Range 9 East of the Willamette Meridian, running thence West a distance of 564 feet; thence South 150 feet; thence East 564 feet; thence North 150 feet to the point of beginning. SAVING AND EXCEPTING a strip of land 30 feet wide along the East side, being a portion of Homedale Road.

| | | | |
|-----------------|----------------------|---------|--------|
| Tax Account No: | 3909-011DB-00200-000 | Key No: | 557427 |
| Tax Account No: | 3909-011DB-00300-000 | Key No: | 557445 |
| Tax Account No: | 3909-011DB-00500-000 | Key No: | 557454 |