

2011-000829

Klamath County, Oregon



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01/24/2011 10:12:51 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 ***Emerald Estates, LLC*** ("Owner") is dated this 1<sup>st</sup> 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	
<b>Premises (or Property) (further described in Exhibit A):</b>	
Premises Name: <u>Emerald Park Mobile Home Community</u>	Number of Units: <u>100</u>
Street Address: <u>4751 Bellm Drive</u>	
City/State/Zip: <u>Klamath Falls, OR 97603</u>	
<b>Agreement Term:</b> 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.	
<b>Start Date:</b> <u>August 1, 2010</u>	<b>Expiration Date:</b> <u>July 31, 2020</u>
<b>Services:</b> Services shall mean all lawful communications services (including video/cable services) that Operator may provide.	
<b>Equipment:</b> 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: \_\_\_\_\_

Address: 9335 Prototype Drive  
Reno, NV 89521

**OWNER**

Emerald Estates, LLC

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

Printed Name: Fred Thomas Owen, Jr.

Title: President

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

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

STATE OF Washington )  
COUNTY OF Clark )

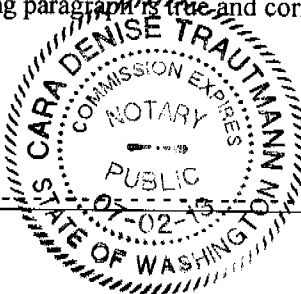
On 9/7/10 before me, Cara Trautmann, Notary Public, personally appeared Frank Antonovich who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized 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 Denise Trautmann



STATE OF Oregon )  
COUNTY OF Jackson )

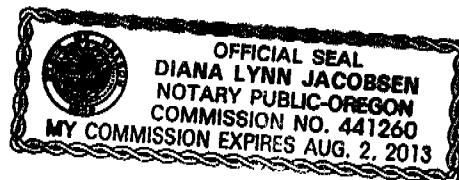
On July 15, 2010 before me, Diana Jacobsen, Notary Public, personally appeared Fred Thomas Owen, Jr who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their 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 2 of MINOR LAND PARTITION 44-91 situated in the W 1/2 NE 1/4 Section 13, Township 39 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, and filed in the Klamath County Clerk's Office.

EXCEPTING THEREFROM that portion of the following described tract of land lying within the SW 1/4 of the NE 1/4:

A tract of land situated in the S 1/2 of the NE 1/4 of Section 13, Township 39 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Beginning at the most Southwesterly corner of Parcel 2 of "Minor Land Partition 44-91," from which the 1/4 corner common to Section 12 and said Section 13 bears North 27° 31' 04" West 1722.42 feet; thence along the boundary of said Parcel 2, North 35° 00' 09" East 213.04 feet, North 89° 42' 49" West 240.00 feet and North 42° 54' 50" West 34.30 feet to a point on the North line of the easement as described in deed Volume 291, page 438 of the Klamath County Deed Records; thence South 89° 42' 49" East, along said North line 670.27 feet to a point on the East line of the W 1/2 of the NE 1/4 of said Section 13; thence North 00° 18' 23" East 4.51 feet to the NE 1/16 corner of said Section 13; thence South 89° 56' 54" East, along the North line of the SE 1/4 of the NE 1/4 of said Section 13, 356.08 feet to a point on the Northerly line of that tract of land described in Deed Volume 308, page 618; thence South 72° 58' 03" West, along said Northerly line, 516.80 feet; thence along the boundary of said Parcel 2, North 75° 46' 50" West 128.10 feet and South 72° 58' 03" West 279.15 feet to the point of beginning.