

2011-000831

Klamath County, Oregon



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01/24/2011 10:14:49 AM

Fee: \$57.00

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

Charter Communications
Attn: Jeanette Macall
9335 Prototype Dr.
Reno, NV 89521

Above for recorders use only

NONEXCLUSIVE INSTALLATION AND SERVICE AGREEMENT

This Installation and Distribution Agreement ("Agreement") between **Falcon Cable Systems Company II, LP** ("Operator") and **Pelican Pointe Assisted Living, LLC** ("Owner") is dated this 13 day of **July 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: Pelican Pointe Assisted Living	Number of Units: 66
Street Address: 615 Washburn Way	
City/State/Zip: Klamath Falls, OR 97603	
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 1 year 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>7/15/2010</u>	Expiration Date: <u>7/15/2015</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, except that from the Effective Date, the internal wiring located within any building,

which includes "cable home wiring" and "home run wiring"¹ (the "Internal Wiring") and, without limitation, excludes set-top boxes, electronics, active components, and exterior Equipment, shall be deemed to be owned by and constitute the personal property of the Owner. Owner hereby grants to Operator the exclusive right to use the Internal Wiring during the Agreement Term and (i) shall not grant any other provider rights to use the Internal Wiring and (ii) shall prohibit other providers from using the same.

Without limiting Operator's exclusive rights to use Internal Wiring and its Equipment, should either (A) an antenna, or signal amplification system or (B) any Owner modification, relocation of, and/or work on the Internal Wiring 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.


¹ The terms "cable home wiring" and "home run wiring" are defined at 47 CFR §§ 76.5(l) and 76.800(d).

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: 2-22-10

OWNER

Pelican Pointe Assisted Living, LLC

By: 

Printed Name: Matthew Dunham

Title: COO Management Company Rep.

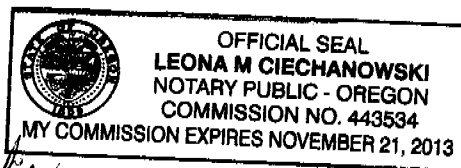
Date: 7-15-10

STATE OF OREGON)
COUNTY OF WASHINGTON }

On JULY 15, 2010 before me, LEONA M. CIECHANOWSKI Notary Public, personally appeared MATTHEW A. DUNHAM 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 Leona M. Ciechanowski

STATE OF Nevada)
COUNTY OF Washoe }

On 9/28/10 before me, Jeanette MacCall, Notary Public, personally appeared Frank Antonovch 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 Nevada that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Jeanette MacCall

EXHIBIT "A"

PARCEL 1

That portion of Tract 40B lying South and Westerly of the U S B.R. "A" Canal and Easterly of Washburn Way and all of Tract 40C, ENTERPRISE TRACTS, in the County of Klamath. State of Oregon

EXCEPTING THEREFROM that portion deeded to Klamath County in Book 335, Page 87, tract deeded to Fred A. Lewis, et ux, in Book 336, Page 157, and parcel deeded to United States of America for canals and laterals recorded June 25, 1909 in Book 27, Page 236 and in Book 38 at Pages 209 and 210, all Deed Records of Klamath County, Oregon, and that portion of Tract 40C described as follows

Beginning at a one-half inch iron pin on the East right-of-way line of Washburn Way, said point being North 00 degrees 20'00" East along the centerline of Washburn Way and along the West line of Section 34 a distance of 332.19 feet and South 89 degrees 33'03" East a distance of 30.00 feet from the 518-inch iron pin marking the West one-quarter corner of Section 34, thence North 00 degrees 20'00" East along the East right-of-way line of Washburn Way a distance of 285.00 feet to a one-half inch iron pin; thence South 89 degrees 33'03" East parallel with the North line of "Mills Gardens" subdivision a distance of 472.43 feet to a one-half inch iron pin, thence continuing South 89 degrees 33'03" East a distance of 29 feet, more or less, to the Westerly right-of-way line of the U S B R "A" Canal; thence Southeasterly along said Westerly line to the North line of "Mills Gardens" subdivision, thence North 89 degrees 33'03" West along the North line of "Mills Gardens" subdivision (South 89 degrees 45' West by said subdivision plat) a distance of 20.96 feet, more or less, to a two-inch iron pipe, thence continuing North 89 degrees 33'03" West along said subdivision line a distance of 606.40 feet to the point of beginning

ALSO EXCEPTING THEREFROM any portion lying within the boundaries of Washburn Way PARCEL 2.

A tract of land situated in Tracts 40B and 40C, ENTERPRISE TRACTS, in the NW 1/4 of Section 34, Township 38 South, Range 9 East of the Willamette Meridian, in the County of Klamath. State of Oregon, more particularly described as follows

Beginning at an iron pin located North 0 degrees 24' West a distance of 792.2 feet from the two-inch pipe marking the initial point of "Mills Gardens" subdivision, said initial point being North 0 degrees 24' West a distance of 15.0 feet and North 89 degrees 45' East a distance of 30.0 feet from the West quarter corner of said Section 34 according to the officially recorded plat of said "Mills Gardens" subdivision, thence North 0 degrees 24' West a distance of 85.0 feet to an iron pin; thence North 89 degrees 36' East a distance of 100.0 feet to an iron pin; thence South 0 degrees 24' East a distance of 85.0 feet to an iron pin; thence South 89 degrees 36' West a distance of 100.0 feet, more or less to the point of beginning

EXCEPT THEREFROM that portion lying within the boundaries of Washburn Way