

**ORDINANCE NO. 3599**

**AN ORDINANCE GRANTING A FRANCHISE TO CHARTER COMMUNICATIONS FOR THE PURPOSES OF PROVIDING CABLE TELEVISION SERVICES, EFFECTIVE JUNE 1, 2024**

**WHEREAS**, Spectrum Pacific West, LLC, locally known as Charter Communications, currently holds a cable franchise with the City of Roseburg, Oregon, granted by Ordinance 3429, to operate and maintain a cable television system in the City; and

**WHEREAS**, the current Franchise expires May 31, 2024. Charter Communications has substantially complied with the terms of its current franchise and applicable provisions of the Roseburg Municipal Code and has the financial, legal and technical ability to provide services, and the facilities and equipment necessary to meet the future cable-related needs of the community;

**NOW, THEREFORE, THE CITY OF ROSEBURG ORDAINS AS FOLLOWS:**

**SECTION 1.** The Franchise Agreement attached hereto as Exhibit 1 is hereby approved.

**SECTION 2.** The City Manager is hereby authorized to execute the Franchise Agreement.

**SECTION 3.** Within thirty (30) days of the passage of this ordinance, Charter Communications shall sign a copy of this ordinance in the space below and indicate its unconditional acceptance of the terms and conditions upon which the City has offered the Franchise. Failure to accept the Franchise within thirty (30) days shall void this ordinance and have no force or effect.

**SECTION 4.** This Franchise is granted pursuant to Chapter 9.10 of the Roseburg Municipal Code, entitled "Cable Television Services" and shall be interpreted to include all provisions of Chapter 9.10 as they presently exist, unless excluded in Exhibit 1, and all other provisions of the Roseburg Municipal Code and City regulations with which the Franchise or Chapter 9.10 requires compliance, as if set forth in writing herein.

**SECTION 5.** Provided Charter Communications has accepted this ordinance and the Franchise attached hereto in accordance with Section 3 of this ordinance, the new Franchise shall become effective June 1, 2024 and expire on May 31, 2034 as provided in Section 14.14 of said Franchise.

**ADOPTED BY THE ROSEBURG CITY COUNCIL THIS 25th DAY OF MARCH, 2024.**

**APPROVED BY THE MAYOR THIS 25TH DAY OF MARCH, 2024.**

  
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LARRY RICH, MAYOR

**ATTEST:**

  
\_\_\_\_\_  
AMY NYTES, CITY RECORDER

## FRANCHISE AGREEMENT

**This Franchise Agreement (“Franchise”)** is between the City of Roseburg of Oregon hereinafter referred to as the “Grantor” and Spectrum Pacific West, LLC 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 Definitions.** 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 Act” shall mean the Cable Communication Policy Act of 1984, as amended, 47 U.S.C. §§ 521, et. seq.
- B. “Cable System,” “Cable Service,” and “Basic Cable Service” shall be defined as set forth in the Cable Act.
- C. “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.
- D. “Council” shall mean the governing body of the Grantor.
- E. “Equipment” shall mean any poles, wires, cable, antennae, underground conduits, manholes, and other conductors, fixtures, equipment, and other facilities used for the maintenance and operation of physical facilities located in the Streets, including the Cable System.

- F. "FCC" shall mean the Federal Communications Commission and any successor governmental entity thereto.
- G. "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 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. "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, 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, any state or federal regulatory fees or the franchise fee; (2) unrecovered bad debt; (3) credits, refunds and deposits paid to Subscribers; (4) any exclusions available under applicable State law.
- J. "Person" shall mean an individual, partnership, association, organization, corporation, trust or governmental entity.
- K. "Public Way" shall include each of the following located within the Franchise Area: public streets, roadways, highways, bridges, 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 Franchise Area.
- L. "RMC" shall mean the Roseburg Municipal Code.
- M. "Standard Installation" shall mean installations to residences and buildings that are located up to 125 feet from the point of connection to Grantee's existing distribution system.
- N. "State" shall mean the State of Oregon.
- O. "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, extend, operate and maintain in, upon, along, across, above, over and under the Public Ways, now in existence and as may be created or established during its terms, all Equipment, including the 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 or State law.

**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 14.14.

**2.3 Police Powers.** The Grantee agrees to comply with any lawfully adopted generally applicable local ordinances, standards and specifications, to the extent said provisions 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 Franchise. 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, regulation, standard or specification that is not generally applicable, this Franchise shall control.

**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, defend the Grantor, its officers, boards, commissions, agents, and employees for all claims for injury to any Person or property caused by the negligence of Grantee in the construction, operation, or maintenance 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 to any Person or property as a result of the acts or omissions 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) business 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, \$4,000,000 General Aggregate
Auto Liability including coverage on all owned, non-owned hired autos	\$2,000,000 per occurrence Combined Single Limit
Umbrella Liability	\$2,000,000 per occurrence

B. The Grantor shall be added as an additional insured 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.

**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, or any other personal characteristic protected by law from discrimination.

**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 Franchise Area where there is a minimum density of at least thirty-five (35) residences per linear strand mile of aerial cable (excluding any home subscribing to any satellite service) as measured from Grantee's closest technologically feasible tie-in point that is actively delivering Cable Service as of the date of such request for service (the "Service Area"). The Cable Service will be provided at Grantee's published rate for standard installations if such residence is a Standard Installation. Notwithstanding the foregoing, the Grantee shall have the right, but not the obligation, to extend the Cable System into any portion of the Franchise Area where another operator is providing Cable Service or into any annexed area which is not contiguous to the Service Area. Grantee shall not be obligated to provide service to any area where it is financially or technically infeasible to do so. Grantee at its discretion may make Cable Service available to businesses within the Service Area.

**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.

**6.3 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 ten (10) business 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 ten day period, the cost of new trenching is to be borne by Grantee.

**6.4 Annexation.** In the event the Grantor modifies the Franchise Area by annexation or any other means, the Grantor shall provide written notice to the Grantee within 10 days of adoption of the annexation ordinance. The Grantor shall also notify Grantee of all new street address assignments or changes within the Franchise Area. Said notice shall be in writing to the address set forth below by U.S. certified mail, return receipt requested or as consistent with state law. Upon request, Grantor shall provide address files and maps in digital format if available. Grantee shall begin to collect franchise fees from Subscribers in any annexed area upon the effective date of the annexation ordinance. Grantee shall not be obligated to collect and remit franchise fees until such notice and information has been received by Grantee.

All notices due under this section shall be sent by certified mail, return receipt requested to the addresses set forth in Section 14.7 with a copy to the Director of Government Affairs within ten (10) business days.

## **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 with generally applicable federal, state and local codes.

**7.2 Construction Standards and Requirements.** All of the Grantee's plant and equipment, including but not limited to, the antenna site, head-end 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, generally applicable building codes,

Grantor's published standards and specifications, and ordinances of Grantor pertaining to construction in the Right of Way. All work shall be 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.

**SECTION 8**  
**Conditions on Occupancy of the Public Way**

**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 way provided Grantee is able to access existing poles, conduits, or other facilities on reasonable terms and conditions. Grantor's light poles are not utility poles.

**8.2 Underground Construction.** All newly constructed facilities of the Grantee shall be installed in accordance with RMC 4.02.080. In areas where either telephone or electric utility facilities are installed aerially at the time of system construction, with the Public Works Director's authorization pursuant to said RMC provision, the Grantee may install its facilities aerially with the understanding that at such time as the Grantor requires the existing aerial facilities to be placed underground, the Grantee shall likewise place its facilities underground at its own expense, provided that Grantor also requires telephone and electric utilities to go underground as well. However, 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 construction work, including the opening or disturbance of any Public Way within the Franchise 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 Public Way. The Grantee shall adhere to all building and zoning codes, and Grantor's published standards and specifications, currently or hereafter applicable to construction, operation or maintenance of the Right of Way and shall pay any generally applicable permit fees. Such codes shall be of general applicability and shall be uniformly and consistently applied by the Grantor as to other public utility companies and other entities operating in the Franchise Area to the extent such uniform and consistent application is consistent with state law.

**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.** 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, which may include but not be limited to placing a temporary asphalt patch, installing a trench plate or making other temporary repairs until the Street is restored. 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 Public Way immediately prior to such damage or disturbance and as may be required by Grantor's ordinances, codes, and Grantor's published standards and specifications pertaining to restoration of Public Ways. If Grantee fails to restore the Public Way within the time required by its permit, ordinance or generally applicable policy, or such longer time provided by the Grantor in the event weather or other events beyond Grantee's control prevent restoration necessary to return the Public Ways to their pre-work condition, Grantor may, after providing prior written notice of at least ten (10) working days to Grantee, restore the Public Way and bill Grantee for the costs of such restoration and may also assess a penalty in accordance with RMC 4.02.170. Notwithstanding the notice provisions in the preceding sentence, if Grantee leaves the Public Way in a condition that violates the terms of its permit and creates an imminent danger of physical injury to persons or substantial damage to property, Grantor may immediately take such steps as are necessary to reduce the risk of harm, remove the dangerous condition or restore the Public Way after making such efforts to contact Grantee as are reasonable under the circumstances. Grantee shall reimburse Grantor for the costs of such repair or restoration within ninety (90) days following receipt of an itemized invoice by Grantor, along with an explanation of the basis for the Grantor's determination that emergency restoration action was required.

**8.6 Removal in Emergency.** Whenever, in case of fire or other emergency or disaster, it becomes necessary in the judgment of the Grantor to remove or damage 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. All tree trimming shall be performed in a manner that avoids or minimizes damage to the tree and shall comply with any applicable regulations of Grantor.

**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 given 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.** Grantee shall comply with 47 U.S.C. 544(g) and all regulations issued pursuant thereto with respect to an Emergency Alert System (“EAS”).

## **SECTION 9** **Service and Rates**

**9.1 Customer Service Requirements.** Grantee shall comply with the customer service standards set forth in Sections 76 of the FCC Rules and Regulations.

**9.2 Phone Service.** The Grantee shall maintain a toll-free telephone number and a phone service operated to receive complaints and requests for repairs or adjustments at any time.

**9.3 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’ notice of any changes in rates in accordance with applicable law.

**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 14.2 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 to five percent (5%) of the annual Gross Revenue. 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 amount of franchise fee and the method of calculation shall be equal when compared to the amount or method of calculation of the franchise fee in any other cable franchise or authorization to provide video service granted by Grantor. Grantee shall continue to collect and pay franchise fees under the former Franchise in the interim period and ending sixty (60) days after the Effective Date of this Franchise. In the event any other cable franchise or authorization to

provide video service provides for a lesser franchise fee than this Franchise, Grantee's obligation to pay a franchise fee under this Section 10.1 shall be reduced by an equivalent 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 14.12. 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 Limitation on Recovery.** The period of limitation for recovery of any franchise fee payable hereunder shall be six (6) years from the date on which payment by the Grantee was due. If any undisputed Franchise payment or recomputed payment is not made on or before the dates specified herein, Grantee shall pay an interest charge, computed from the last day of the fiscal year in which payment was due, at the annual rate of one (1%) percent over the prime interest rate.

**10.5 Audit.** Upon thirty (30) days written notice to the Grantee, the Grantor shall have the right to audit the books and records of Grantee to determine whether the Grantee has paid franchise fees owed. 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. Said audit shall be conducted no more than once annually, and the audit period shall not be any greater than the previous six (6) years. The audit shall not last longer than six (6) months. Any undisputed amounts due to the Grantor as a result of the audit shall be paid within sixty (60) days following written notice to the Grantee by the Grantor, which notice shall include a copy of the audit findings.

## **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**

**12.1 Records Required.** The Grantee shall at all times maintain a full and complete set of plans, records and strand maps in digital format if available, showing the location of the Cable System.

**12.2 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 material terms of this 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 one (1) year, provided that Grantee shall retain books and records relevant to the payment of the Franchise Fee for a period of six (6) years. 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, records, or maps 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, records, or maps marked confidential, as set forth above, to any Person.

**SECTION 13**  
**Enforcement or Revocation**

**13.1 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").

**13.2 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.

- A. If Grantee notifies Grantor that it will take more than thirty (30) days to remedy the violation, Grantor shall decide, within ten (10) days of the notice from Grantee and after informal consultation with Grantee, whether Grantor agrees that the proposed steps and time line are reasonable. If Grantor does not agree that Grantee's proposed remedy of the violation is reasonable, Grantor shall notify Grantee that it may treat the continued violation as a default if Grantee does not remedy the noncompliance within a specified time.

- B. Notwithstanding the foregoing provisions of this Subsection 13.2, if Grantor deems that the noncompliance creates a safety hazard, Grantor shall so notify Grantee, and Grantee shall remedy the safety hazard as soon as possible, not to exceed 24 hours.

**13.3 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 14.8 hereof. 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 thirty (30) 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.

For purposes of the hearing(s) described in Subsection 13.3 and 13.5, the parties may mutually agree to designate a person to preside at the hearing(s) and to prepare a recommended decision for the Council under such terms as the Council may prescribe.

**13.4 Enforcement.** Subject to applicable federal and State law, in the event the Grantor, after the hearing set forth in subsection 13.3 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 14.5 below.

The remedies described in this Subsection 13.4 are cumulative, and Grantor may pursue one or more of them in its sole discretion.

**13.5 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 thirty (30) 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. The public hearing shall be conducted in accordance with the requirements of Section 13.3 above.

- B. Notwithstanding the above provisions, the Grantee reserves all of its rights under federal law or regulation.
- C. Upon revocation of the Franchise and notice of a request from Grantor, Grantee shall remove the Cable System from the Public Ways of the Grantor within one year of the date of Grantor' s request. If Grantee abandons the Cable System in place without Grantor having requested it to do so, Grantor may remove the Cable System, and Grantee shall pay Grantor the reasonable costs of such removal.

#### **SECTION 14** **Miscellaneous Provisions**

**14.1 Compliance with Laws.** Grantor and Grantee shall conform to all applicable state and federal laws and rules regarding 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.

**14.2 Force Majeure.** 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.

**14.3 Minor Violations.** Furthermore, the parties hereby agree that it is not the Grantor's intention to subject the Grantee to 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 Franchise Area, or where strict performance would result in practical difficulties or hardship to the Grantee which outweighs the benefit to be derived by the Grantor and/or Subscribers.

**14.4 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.

**14.5 Equal Protection.**

- A. If the Grantor lawfully grants a franchise to any entity to use the Public Way for the construction, operation and maintenance of any communications facility that offers services substantially equivalent to the services offered by Grantee under this Franchise, the terms of such franchise shall not be substantially more favorable or less burdensome than the terms of this Franchise, so that Grantee suffers no material competitive disadvantage as a result of the differences in the terms of the franchise granted to the competitive service provider.
- B. If Grantee determines that Grantor has granted a franchise on terms failing to meet the requirements of the above Subsection 15.4.1, upon thirty (30) days prior written notice to the Grantor, Grantee may have the right and choose to:
  - i. Request that Grantor modify this Franchise to meet the mutual satisfaction of the Grantor and Grantee; or
  - ii. Deem this Franchise terminated thirty-six (36) months from the date of the above written notice and begin renewal negotiations under Section 626 of the Cable Act; or
  - iii. Terminate this Franchise and request in its place the same franchise agreement the Grantor granted to the competitive provider.
- C. If any other state or federal governmental entity is lawfully authorized as to the above, then Grantee shall have the right and may choose to deem this Franchise expired and to negotiate a replacement franchise license, consent, certificate or other authorization with any other appropriate government entity.
- D. The Grantor and the Grantee agree that any undertakings that relate to the renewal of the Grantee's Franchise with the Grantor shall be subject to the provisions of Section 626 of the Cable Act or any such successor statute. Nothing in this Franchise shall impair the right of the Grantor or Grantee to terminate this Franchise or seek other remedies available under law upon sixty (60) days prior written notice to the other.

**14.6 Change in Law.** The Grantor and Grantee have entered into this Franchise under the federal and state laws in effect on the effective date of this Franchise. The Grantor and the Grantee reserve the right to request modifications to this Franchise to account for changes in state or federal law during the term of this Franchise. Upon such request from either party, the parties shall engage in good faith negotiations to reach agreement on modifications that are consistent with the changes in law. All changes to the Franchise shall be in writing and signed by the Grantor and the Grantee.

**14.7 Notices.** Unless otherwise provided by federal, State or local law, all notices 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, or nationally or internationally recognized courier service such as Federal Express to the address set forth below. As set forth above, notice served upon the Grantor shall be delivered or sent to:

Grantor: City of Roseburg

City Manager  
City of Roseburg  
900 SE Douglas Blvd  
Roseburg, OR 97470  
Email: info@cityofroseburg.org

Grantee: Charles Deister  
Director, Government Affairs  
222 NE Park Plaza Drive, Suite 231  
Vancouver, WA 98684  
Email: Charles.deister@charter.com

Copy to: Paul Abbott  
Attn: Vice President, Government Affairs  
601 Massachusetts Avenue NW, Suite 400W  
Washington, DC 20001

**14.8 Public Notice.** Grantor shall provide public notice of any public meeting relating to this Franchise or any grant of additional franchises, licenses, consents, certificates, authorizations or exemptions by the Grantor to any other providers of Cable Services or other television services utilizing any system or technology requiring use of the Public Way in accordance with its standard procedures for public notice of public hearings conducted by its City Council or its Planning Commission, as may be applicable in the particular case and in accordance with state law.

**14.8.1** Grantor shall provide Grantee written notice within fifteen (15) days of Grantor's receipt from any other provider of an application or request for a franchise, license, consent, certificate, authorization, or exemptions to provide Cable Services or other television services utilizing any system or technology requiring use of the Public Way. Any public hearings to consider such application or request shall have the same notice requirement as outlined in Subsection 14.8 above.

**14.9 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.

**14.10 Non-waiver.** Neither party's failure to insist upon strict compliance with any provision of this Franchise shall be deemed a waiver of that or any other provision.

**14.11 Survival of Certain Provisions.** In the event the franchise is revoked pursuant to Section 13.5 the obligations described in Subsections 4.1, 4.2, and 8.5 of this Franchise shall survive this Franchise for a period of not more than one (1) year from the date of termination or revocation. In accordance with applicable state statute of limitations, Grantee shall indemnify Grantor for all claims based on acts or events occurring up to the date of such termination, revocation or expiration.

**14.12 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.

**14.13 Administration of Franchise.** This Franchise is a contract, and neither party may take any unilateral action that materially changes the 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.

**14.14 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. If any fee or grant that is passed through to Subscribers is required by this Franchise, such fee or grant shall go into effect sixty (60) days after the Effective Date of this Franchise.

**14.15 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 \_\_\_\_\_, 20\_\_\_\_.

*[Grantor]*

Signature: \_\_\_\_\_

Name/Title: \_\_\_\_\_

Accepted this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, subject to applicable federal and State law.

Spectrum Pacific West, LLC  
By: Charter Communications, Inc., its Manager

Signature: \_\_\_\_\_

Name/Title: \_\_\_\_\_