

RESOLUTION NO. 13-19291

**RESOLUTION APPROVING THE CHANGE OF CONTROL OF THE
FRANCHISEE UNDER THE CABLE TELEVISION FRANCHISE AND
APPROVING AN EXTENSION OF THE CABLE TELEVISION
FRANCHISE**

WHEREAS, Bresnan Communications, LLC ("Franchisee") owns, operates and maintains a cable television system (the "System") in the City of Billings, Montana pursuant to a cable television franchise ("Franchise") granted by virtue of Ordinance No. 08-5472 by the governing body of the City of Billings (the "Franchise Authority"), and Franchisee is the current duly authorized holder of the Franchise; and

WHEREAS, on October 25, 2010, by virtue of Resolution No. 10-19015, the City approved a change of control of the Franchisee subject to the terms of that certain Transfer Agreement ("2010 Transfer Agreement") pursuant to which Cablevision Systems Corporation ("CSC") acquired indirect control of the Franchisee;

WHEREAS, pursuant to a Purchase Agreement between CSC Holdings, LLC (an indirect wholly-owned subsidiary of CSC) and Charter Communications Operating, LLC (an indirect wholly-owned subsidiary of Charter Communications, Inc. ("CCI")) dated as of February 7, 2013 (the "Purchase Agreement"), control of the Franchisee will change (the "Change of Control") once the acquisition contemplated by the Purchase Agreement is consummated (the "Transaction"). The result will be that CCI will indirectly control the Franchisee and all the assets currently held by Franchisee, including the System serving the City;

WHEREAS, CSC and CCI (collectively, the "Companies") have requested the consent of the Franchise Authority to the Change of Control in accordance with the requirements of the Franchise, and have filed an FCC Form 394 with the Franchise Authority to facilitate a decision by the Franchise Authority regarding the Change of Control (the "Application"); and

WHEREAS, the Franchise Authority has reviewed the Application, examined the legal, financial and technical qualifications of CCI, followed all required procedures in order to consider and act upon the Application, considered the comments of all interested parties; and

WHEREAS, the Franchisee also desires to extend the Franchise which by its own terms would expire on July 9, 2013; and

WHEREAS, the Franchise Authority has considered the terms and conditions under which it would be willing to grant an extension of the Franchise; and

WHEREAS, the Companies and the Franchise Authority have negotiated a Transfer Agreement accompanying this Resolution, which includes the terms negotiated by the Franchisee and the Franchise Authority related to extension of the Franchise.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

SECTION 1. The Franchise Authority approves a Change of Control from CSC to CCI. It approves no other transaction, whether contemplated by the Transaction or not. The approval is not a warranty that Franchisee is in compliance with the terms of the Franchise, or a waiver of any obligations of Franchisee.

SECTION 2. The Franchise Authority hereby extends the term of the Franchise through and including July 9, 2015. By future mutual written agreement of the Franchise Authority and Franchisee, the term of the Franchise may be further extended through and including July 9, 2017; or shall be automatically extended through and including July 9, 2017 if the parties do not mutually agree, but Franchisee continues to operate pursuant to the Franchise after July 9, 2015.

SECTION 3. This Consent and Extension are conditioned upon the acceptance and execution by the Franchisee and the other designated signatories of the attached Transfer Agreement. If the same is not signed and accepted, then the Change of Control shall be deemed denied as of the date of this Resolution.

SECTION 4. This Resolution shall be deemed effective as of the date of its passage. This Resolution shall have the force of a continuing agreement with Franchisee and the Companies, and Franchise Authority shall not amend or otherwise alter this Resolution without the consent of Franchisee and the Companies.

PASSED, ADOPTED AND APPROVED this 24th day of June, 2013.



City of Billings, Montana

By: 
Thomas W. Hanel, Mayor

ATTEST:

By: 
Cari Martin, City Clerk

TRANSFER AGREEMENT

This Transfer Agreement ("Agreement") is entered into by and among **Cablevision Systems Corporation ("CSC")** and **CSC Holdings, LLC** (together, the "Transferors"), **Charter Communications Operating, LLC** and **Charter Communications, Inc. ("CCI")** (together, the "Transferees"), **Bresnan Communications, LLC** ("Franchisee"), and the **City of Billings, Montana ("City")**.

WHEREAS, the Franchisee currently holds a non-exclusive franchise that authorizes the use and occupation by Franchisee of the public rights-of-way for the provision of cable services pursuant to the City Ordinances Nos. 08-5471 and 08-5472, (the Franchise), and the 2010 Transfer Agreement (defined below) (together with the Franchise, referred to as the "Franchise Documents"); and

WHEREAS, the Franchise requires the prior approval of the City for a change in control of the Franchisee; and

WHEREAS, on October 25, 2010 the City approved a change of control of the Franchisee subject to the terms of a Transfer Agreement ("2010 Transfer Agreement") in which, the City, the Franchisee and CSC Holdings, LLC agreed, among other things, that the Franchise Documents shall bind and benefit the parties thereto and their respective heirs, beneficiaries, administrators, executors, receivers, trustees, lawful transferees, successors and assigns; and

WHEREAS, pursuant to a Purchase Agreement between CSC Holdings, LLC (an indirect wholly-owned subsidiary of CSC) and Charter Communications Operating, LLC (an indirect wholly-owned subsidiary of CCI) dated as of February 7, 2013 (the "Purchase Agreement"), control of the Franchisee will change (the "Change of Control") once the acquisition contemplated by the Purchase Agreement is consummated (the "Transaction"). The result will be that CCI will indirectly control the Franchisee and all the assets currently held by Franchisee, including the cable system serving the City (the "System"); and

WHEREAS, CSC and CCI filed an application on FCC Form 394 dated February 25, 2013 requesting the City's approval of the Change of Control (the "Application"); and

WHEREAS, CSC and CCI have represented and warranted to the City that Franchisee will continue to be, post-closing, financially, legally and technically qualified to maintain and operate the System; that the Transaction will result in no material reduction in the quality of cable service provided in the City; and Franchisee will devote the necessary personnel and resources to ensure that it is in full compliance with the Franchise Documents and all applicable laws and regulations, including but not limited to customer service standards;

WHEREAS, the Franchise is scheduled to expire by its terms on July 9, 2013 and the Franchisee and City are willing to extend the Franchise in accordance with the terms and conditions of this Agreement; and

WHEREAS, the parties have agreed to clarify certain terms in the Franchise Documents and to memorialize certain Franchisee commitments.

NOW, THEREFORE, THE PARTIES DO HEREBY AGREE:

SECTION 1. The foregoing recitals are true and correct and are incorporated herein by reference.

SECTION 2. Franchisee agrees to the following:

2.1 Compliance with Applicable Law. Franchisee will abide by all terms and conditions of the Franchise Documents and all ordinances and resolutions lawfully in effect, including but not limited to insurance, indemnities, bonds and/or other securities and customer service obligations of the Franchise and applicable law. Franchisee reaffirms that it unconditionally accepts and agrees to abide by the terms and conditions of the Franchise Documents and all ordinances and resolutions affecting the System now lawfully in effect, and affirms that it will retain responsibility for satisfying all obligations under the Franchise Documents and applicable law whether arising before or after the Transaction is consummated. Franchisee affirms that it remains liable for any and all previously accrued but unfulfilled obligations to the City due under the Franchise Documents and applicable law, whether known or unknown.

2.2 Access to Books and Records. The Transferors, for records related to the period prior to the close of the Transaction, and the Transferees, for records related to the period after the close of the Transaction, and the Franchisee shall ensure that all records required by the Franchise Documents, including financial records, shall continue to be available to the City after consummation of the Transaction in the same way and to the same extent such information was available prior to consummation of the Transaction, and for the entire periods required by Section 7-905(a) of the Franchise and applicable law. Transferors, Transferees and Franchisee represent and warrant that Franchisee will have access to, and be able to produce all records pertaining to the System and its operations after the close of the Transaction, including by way of example and not limitation, post-Transaction documents that may be in the possession of Transferors as a result of its activities during the transition period. The Transferors' obligations to the City with respect to books and records ends two (2) years after the transition period under the Purchase Agreement ends.

2.3 Insurance. From and after the effective date of the Transaction, Franchisee will have in place the insurance, indemnities, bonds, and other securities required under the Franchise Documents and applicable law. To the extent there are any changes to the same contemporaneous with the consummation of the Transaction, revised certificates, complying with the requirements of the Franchise Documents, must be provided within thirty (30) days of consummation of the Transaction. Failure to provide proper certificates shall be grounds for liquidated damages or revocation of the Franchise under the procedures set forth in the Franchise Documents.

2.4 No Action Inconsistent.

(a) The Transferors (for so long as they are involved in the operation or management of the System), Transferees and the Franchisee each agree that, from and

after the consummation of the Transaction, it will not take any action inconsistent with the promises contained in the Franchise Documents or this Agreement. Franchisee shall fully comply with all of the terms and conditions set forth in the Franchise Documents and this Agreement.

(b) For the remaining term of the Franchise, including any extension pursuant to Section 2 of the Consent Resolution (as defined in Section 2.13), Franchisee agrees none of the facilities, equipment or services provided by the Franchisee without charge prior to the consummation of the Transaction related to PEG use of the System (whether or not Franchisee believes that the same are required by the Franchise Documents) will cease to be provided after the consummation of the Transaction, or will be treated as, or result in a charge or in an offset against the Franchise fees. The foregoing is not an agreement or an acknowledgement by Franchisee that absent this explicit agreement, Franchisee would not be permitted to do so under applicable law. Nothing in this Agreement prevents Franchisee from passing through PEG costs to subscribers to the extent allowed by applicable law. Notwithstanding the foregoing, if Franchisee believes that a facility, service or equipment is not required by the Franchise Documents, Franchisee will notify the City, and the City will promptly advise Franchisee whether it agrees (in which case, Franchisee is not obligated to provide the facility, service or equipment) or disagrees. If City disagrees, nothing in this paragraph prevents Franchisee from seeking a declaration that a facility, service or equipment is not required by the Franchise Documents.

(c) Section 7-903(l) of the Franchise will be interpreted to require the following. Franchisee shall maintain and continue to provide the free cable services to all public buildings to which it was providing such free cable services as of June 1, 2013, and upon request, shall provide without charge, a Standard Installation and one outlet of Basic Cable to those administrative buildings owned and occupied by the City, fire station(s), police station(s), and K-12 public school(s) existing as of June 1, 2013. For such additional buildings as may be added thereafter, Franchisee shall provide a free outlet of Basic Service upon request, provided that, if the person requesting service is more than 350 feet from the Cable System, Franchisee shall provide such free cable service and an extension upon request, if the person requesting service agrees to pay the additional incremental cost of drop installation beyond the cost for the first three hundred and fifty (350) feet. The Cable Service provided shall not be used for commercial purposes, and such outlets shall not be located in areas open to, and used continuously by the general public (students are not treated as part of the general public for purposes of this paragraph). The City shall take reasonable precautions to prevent any use of the System in buildings owned or controlled by City in any manner that results in the inappropriate use thereof or any loss or damage to the System. Each building may extend the cable service from the free outlet to other locations, and Franchisee shall provide power levels to the building to permit the cable service to be so extended. If additional amplifiers are required in the building, the Franchisee may charge its actual cost of the amplifier. Franchisee agrees not to offset the costs of providing the foregoing against Franchise fees paid to the City during the remaining term of the current Franchise, including any extension pursuant to Section 2 of the Consent Resolution (as defined in Section 2.13). The foregoing is not an agreement or

an acknowledgement by Franchisee that absent this explicit agreement, Franchisee would not be permitted to do so under applicable law.

2.5 Call Center. Franchisee affirms its commitments as set forth in the attached Exhibit A, Letter from Mark Brown, Vice President, Corporate Government Affairs to Christina Volek, dated June 24, 2013.

2.6 PEG Support Payments. Franchisee agrees to continue to pay a sum equal to \$0.25/month/subscriber as required by the Franchise Documents and City Resolution 1-19096. Consistent with Section 7-908(i) of the Franchise, the City reserves its right to increase this amount, by resolution, to up to \$0.85 per subscriber per month. Such charge may be passed through to subscribers as a PEG fee at Franchisee's option, but may not be offset against the Franchise fee.

2.7 PEG Capital for Extension. In consideration for the two (2) year extension of the Franchise granted by the City by the Consent Resolution, Franchisee agrees to pay the City \$50,000 for PEG capital expenditures within sixty (60) days following the Change of Control. If the Franchise is extended by an additional two (2) years as set forth in the Consent Resolution, Franchisee agrees to pay the City an additional \$25,000 for PEG capital expenditures within sixty (60) days following the effective date of the extension.

2.8 PEG Use.

(a) The parties agree that, read together with the 2010 Transfer Agreement, Subsection 7-908(g) requires that PEG links and channels must be designed so that there is no noticeable deterioration in signal quality or programming as received from the PEG programmer and viewed by the Subscriber except as provided in this Agreement. The City shall provide Franchisee at least 90 days' written notice before it begins delivering PEG signals in a high definition format to Franchisee's System headend. Upon the date specified in such notice, Franchisee will provide a high definition version of the PEG channel known as "channel 7" for such programming on the System and will also deliver a standard definition version (in analog as long as Franchisee is offering any analog programming other than PEG on the basic service tier). Once Franchisee digitizes all other signals on the basic service tier, PEG channels shall be provided in a digital format, including cablecasting in high definition and standard definition format any PEG programming provided to Franchisee's headend in high definition format (as long as standard definition formats are offered for other channels on the System). PEG signals shall be cablecast by Franchisee on high-quality transmission paths. There should be no difference to the Subscriber between the PEG channels and broadcast channels delivered in the same format (analog versus digital; standard definition versus high definition) in terms of accessibility, recordability, or any other feature or function controlled by Franchisee.

(b) The parties agree that with the advent of high definition formats, Section 7-908, *Channel Location* shall be interpreted as follows: Franchisee agrees to use reasonable efforts to locate PEG signals on numbers so that they are grouped with the majority of channels a Subscriber receives as part of the lowest level of service offered on the System

that contains other channels delivered in the same format. Franchisee shall provide sixty (60) days advance written notice of any change of location of any PEG signal, other than the government channel unless a shorter time frame is required by applicable law, in which case Franchisee shall provide as much advance notice as reasonably possible. Franchisee shall pay reasonable expenses associated with a change in the PEG channel positions, up to Three Thousand Dollars (\$3000.00) per change. Franchisee shall also provide up to two (2) 15-second slots per day, on the channel previously occupied by a PEG channel, mixed over morning, afternoon, evening and late night time slots, for thirty (30) days after a change in channel positions, subject to restrictions on ad inserts in Franchisee's contract with the applicable programmer. Franchisee shall not change the channel position for the government channel designated by the City, without the City's consent unless the change is required by federal law. City consent will not be unreasonably withheld, conditioned or delayed.

(c) The Franchisee will continue to provide and maintain a dedicated two-way activated fiber link between playback center(s) (currently the Channel 7 playback facility at the Lincoln Center) and the Franchisee's headend so that all PEG signals can be transmitted without degradation to the headend for cablecasting to subscribers; so that all PEG signals can be monitored; and so that signals from origination drops or other playback centers, if any, can be received without degradation at the playback center(s), and then sent to the headend for cablecasting to subscribers.

(d) The Franchisee will continue to provide and maintain dedicated activated fiber links between the playback center located at the Lincoln Center (the "Playback Center") and the following locations so that each location may transmit signals without degradation to the Playback Center:

1. City Hall (Council Chambers/Municipal Court), located at 220 North 27th Street
2. Yellowstone County Courthouse (Commissioner's Board Room), located at 217 North 27th Street
3. School District #2 Lincoln Center Board Room

(e) With respect to the following locations the parties agree that the Franchise Documents shall not be read to require Franchisee to replace existing coaxial connections with fiber connections in order to support high definition transmissions. Franchisee agrees to work to provide alternative means to support high definition transmissions from these locations (such as use of cable modems to support transmissions from these sites), but cannot guarantee that the high definition signal will pass through without degradation:

1. Dehler Park, located at 2611 9th Avenue North
2. Alberta Bair Theater, located 2801 3rd Avenue North
3. Babcock Theater (Parade Broadcast Location), located at 2812 Second Avenue North

(f) So long as Franchisee has access to and permissions to use the necessary property to construct and place any necessary cable lines and equipment (and such access

and permissions are at no additional cost to Franchisee), Franchisee upon written request shall provide a fiber connection to allow live programming, including high-definition programming to be transmitted from the Billings Public Library to the Playback Center. The City will work cooperatively with Franchisee to determine whether there is City fiber that can be used for the connection.

(g) This Agreement does not alter Franchisee's obligations to provide and maintain other origination points as set forth in the Franchise Documents.

(h) The parties agree that the obligations under Section 2.8 shall not result in any offset against the Franchise fee nor any charges to the City by Franchisee. Nothing in this Agreement prevents Franchisee from passing through PEG costs to subscribers to the extent allowed by applicable law.

2.9 Franchise Fees. The Transferees confirm that they have reviewed the way franchise fees are currently calculated under the Franchise Documents and will not institute any changes in existing policies or practices regarding the manner in which the fees are being calculated that would cause or have the effect of causing a material reduction in the franchise fees paid by the Franchisee under the Franchise Documents.

Notwithstanding the foregoing, where Franchisee or any affiliate bundles, integrates, ties, or combines cable services with noncable services creating a bundled package, so that subscribers pay a single fee for more than one class of service or receive a discount on cable services, gross revenues shall be determined based on an equal allocation of the package discount, that is, the total price of the individual classes of service at retail rates compared to the package price, among all classes of service comprising the package. If Franchisee does not offer any component of the bundled package separately, Franchisee shall declare a stated retail value for each component based on reasonable comparable prices for the product or service for the purpose of determining franchise fees based on the package discount described above. Franchisee shall maintain records of all bundles offered, and the number of subscribers to each bundle, and the allocation for each bundle, along with other information required to permit an accurate audit of franchise fees paid on bundled services. Notwithstanding the foregoing, the parties agree that such bundling methodology may be changed if (a) Franchisee's or Transferees' internal or external accountants determine that such change is necessary or advisable for compliance with United States generally accepted accounting principles related to such allocations, (b) CCI's independent auditors do not disagree with such changes, (c) Franchisee explains and provides reasonable backup documentation regarding any such changes to the City as part of the City's audit of franchise fee payments and (d) in the event of change to the bundling methodology that materially affects the franchise fee payments to the City, Franchisee explains and provides reasonable backup documentation regarding any such changes to the City as part of Franchisee's first franchise fee payment affected by such change. Notwithstanding the foregoing, the City reserves all rights to challenge any change in Franchisee's bundling methodology. Without limiting its obligations under the Franchise Documents, Franchisee will continue to provide at least the same level of detail in its reports accompanying its franchise fee payments as was provided prior to consummation of the Transaction.

2.10 Transition Services. The use of the Transferors or any of their affiliates or third party vendors by the Franchisee and/or by the Transferees to perform any services pursuant to the terms of that certain Transition Services Agreement referred to in the Recitals to the Purchase Agreement, shall not release or relieve the Franchisee from the faithful and full performance of any of its obligations under this Agreement or the Franchise Documents. Further, Franchisee shall be responsible directly to the City for responding promptly to any requests for information or reports concerning the operations of the Franchisee or related to the Franchise Documents. In no circumstance shall the Franchisee claim an event of *force majeure* under Section 7-907(f) of the Franchise exists on the grounds that the Transferors or any of their affiliates or third party vendors performed or failed to perform any services pursuant to the terms of the Transition Services Agreement.

2.11 Rates. Consummation of the Transaction, as defined herein, will not cause an increase in cable rates for services or equipment, or the imposition of new fees or charges related to cable services or equipment, and the Franchisee is not planning to increase rates for cable services or equipment, or to impose new fees or charges related to cable services or equipment, based upon the amount paid in connection with the Change of Control of the System or any other cable system that is being purchased as part of the Transaction. Nothing in this paragraph shall be construed as a waiver of Franchisee's notice obligations under the Franchise Documents or other applicable requirements or of the City's or the Franchisee's rights under applicable rate regulation law.

2.12 Not A Warranty of Compliance. Except as specifically provided herein, the City is not warranting that Franchisee is in compliance with the Franchise Documents, or by its approval waiving any of the obligations of the Franchise Documents. At no time will the Franchisee or the Transferees contend, either directly or indirectly, that the City is barred, by reason of the Transaction or approval of the Change of Control, from considering, or raising claims based on, any defaults of Franchisee or any failure by Franchisee to comply with the terms and conditions of the Franchise Documents or with applicable law.

2.13 Effective Date/Time for Consideration. Provided the City adopts a resolution approving the change of control substantially in the form attached as Exhibit B (the "Consent Resolution"), this Agreement shall be effective upon signature by all the signatories. The parties agree that provided the City adopts the Consent Resolution by June 26, 2013, the City's action shall be treated as within any deadline established by federal law.

2.14 Renewal. The Transferees agree that in any renewal proceeding, Franchisee shall meet the reasonable future cable-related community needs and interest of the City, taking into account the costs of meeting such needs and interests, and that Franchisee shall not claim that any Purchase-related expenses preclude it from meeting such cable-related needs and interests. The parties agree to engage in timely, good faith negotiations regarding the renewal of the Franchise prior to its scheduled expiration.

2.15 Binding Acceptance. After this Agreement has become effective pursuant to Section 2.13, and with respect to the Franchise Documents, after consummation of the Change of Control, this Agreement and the Franchise Documents (for so long as the Franchise remains in effect) shall bind and benefit the parties hereto and their respective heirs, beneficiaries, administrators, executors, receivers, trustees, lawful transferees, successors and assigns. The promises and obligations shall survive the expiration or termination of this Agreement.

2.16 Breach. Any breach of this Transfer Agreement shall be subject to any and all available remedies at law or equity.

SECTION 3. Miscellaneous. If any term, condition, or provision of this Agreement shall, to any extent, be held to be invalid, preempted, or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective. This Agreement may be executed in several counterparts and shall be governed in all respects by the law of the State of Montana.

SECTION 4. Notice. The notice provisions of the Franchise, Section 7-909(d) is amended to require notice to the Franchisee to go to:

Bresnan Communications, LLC
Attention: Government Affairs Department
314 N Last Chance Gulch, Suite 104-A
Helena, MT 59601

With a copy to:

Charter Communications, Inc.
Attention: Cable Franchise Administrator
Government Affairs Department
12405 Powerscourt Drive
St. Louis, MO 63131

AGREED TO THIS 24th DAY OF JUNE, 2013.

CABLEVISION SYSTEMS CORPORATION

BY: _____

ITS: _____

CHARTER COMMUNICATIONS OPERATING, LLC

BY: _____

ITS: _____

CSC HOLDINGS, LLC

BY: _____

ITS: _____

CHARTER COMMUNICATIONS, INC.

BY: _____

ITS: _____

BRESNAN COMMUNICATIONS, LLC
BY: _____
ITS: _____

CITY OF BILLINGS, MT
BY: Thomas W. Hanel
Thomas W. Hanel, Mayor