

BILL NO. 09-15

ORDINANCE NO. 2215

AN ORDINANCE TO AUTHORIZE THE MAYOR TO SIGN AN AMENDMENT TO LEASE AGREEMENT BETWEEN THE CITY OF WARRENTON, MISSOURI, AND CHARTER COMMUNICATIONS ENTERTAINMENT 1, LLC

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF WARRENTON MISSOURI, AS FOLLOWS:

SECTION I: That the Mayor is hereby authorized to execute on behalf of the City of Warrenton an amendment to lease agreement for premises located at 312 Coleman Drive with Charter Communications Entertainment I, LLC. A copy of said agreement is attached hereto as Exhibit "A" and made a part hereof by reference.

SECTION II. If any section, subsection, sentence, clause, phrase or portion of this amendment is for any reason held invalid or unconstitutional by a judgment of a court of competent jurisdiction, as to which not further appeal right exists, such portion shall be deemed separate, distinct and independent provision and such holding shall not affect the validity or remaining portions hereof.

SECTION III. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

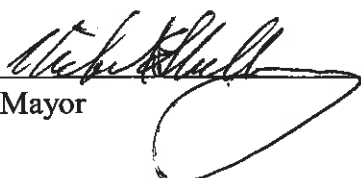
SECTION IV. This Ordinance shall take effect and be in full force from and after passage and approval thereof.

READ TWO TIMES AND PASSED by the Board of Aldermen of the City of Warrenton, Missouri, this 3rd day of March, 2015.



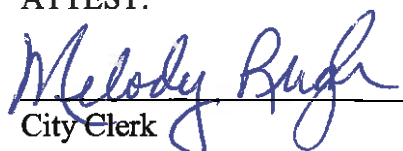
President of the Board of Aldermen

APPROVED BY THE MAYOR of the City of Warrenton, Missouri, this 3rd day of March, 2015.



Mayor

ATTEST:



City Clerk

FIRST AMENDMENT TO LEASE AGREEMENT

This First Amendment to Lease Agreement (this "**Amendment**") is entered into as of February _____, 2015 (the "**Effective Date**"), between Lessor and Lessee (each as defined in Section 1 below). For valuable consideration, the receipt and adequacy of which are hereby acknowledged, Lessor and Lessee agree that:

1. **Definitions.** In this Amendment the following terms have the meanings given to them:

- (a) **Lessor:** The City of Warrenton, Missouri, a municipal corporation.
- (b) **Lessee:** Charter Communications Entertainment I, LLC, a Delaware limited liability company.
- (c) **Lease:** Lease Agreement dated February 3, 1998, between Lessor and Charter Communications Entertainment I, L.P., predecessor-in-interest to Lessee, as renewed by Lessee pursuant to the Renewal Option dated July 17, 2007.
- (d) **Premises:** 312 Coleman Drive, Warrenton, Missouri 63383 as more particularly described in **Exhibit A** attached hereto and in the Lease.

Any capitalized term used in this Amendment but not defined in this Amendment has the meaning given for such term in the Lease.

2. **Term.** The term of the Lease is extended through and including February 28, 2020.

3. **Rent.** As of March 1, 2015, annual rent for the Premises shall be \$5,000, payable on or before March 1st of each year during the term of the Lease.

4. **Alterations and Additions.** Notwithstanding anything to the contrary contained in the Lease, at the expiration or earlier termination of Lease, (a) Lessee may, but shall not be required to remove, any alterations or improvements to the Premises installed prior to the date of this Amendment, and (b) Lessee shall have no obligation to restore the Premises to its prior condition. Notwithstanding the foregoing, upon vacating the Premises, Lessee shall not cause unusually large holes to be left in the ground after the removal of its equipment or structures.

5. **Assignment and Subletting.** Except as expressly set forth herein, Lessee shall not assign this Lease or sublet the Premises, or any part thereof, without Lessor's prior written approval. Notwithstanding anything to the contrary contained in the Lease, Lessee shall have the right to sublet all or a portion of the Premises or to assign the Lease, without Lessor's consent, to any of Lessee's Affiliates (as defined below) or to any Communications Purchaser (as defined below). Any such sublessee or assignee shall have a similar right to sublet all or a portion of the

Premises or to assign the Lease, without Lessor's consent, to any of Lessee's Affiliates or to any Communications Purchaser. As used herein, "**Lessee's Affiliates**" means any corporation or other entity that controls, is controlled by, or is under common control with, Lessee, or any corporation or other entity that results from a merger or consolidation with Lessee. As used herein, "**Communications Purchaser**" means any purchaser of all or a portion of the communications systems, equipment or business operations of Lessee or Lessee's Affiliates located on or related to the Premises. Upon any assignment of the Lease as permitted by this section, Lessee shall be relieved of all obligations and liabilities arising hereunder after the date of the assignment. No transfer or assignment of the stock of Lessee, or any ownership interest in Lessee, whether by sale, merger, exchange or other means, shall constitute an assignment of the Lease.

6. **Lessee Insurance.** Notwithstanding anything to the contrary contained in the Lease, at all times during the term, Lessee, at its own expense, shall be required only to maintain the following insurance from insurers authorized to do business in the state where the Premises is located:

(a) Commercial General Liability insurance with an occurrence limit of not less than \$1,000,000 and an aggregate of \$2,000,000. Lessee shall name Lessor as an additional insured and provide Lessor upon request with certificates evidencing such coverage.

(b) Employer's Liability with a limit of \$500,000 and Statutory Worker's Compensation pursuant to the Worker's Compensation laws of the state where the Premises is located.

Further, Lessee will assume all risk for damage to Lessee's fixtures, equipment and other personal property. Lessee shall have the right to satisfy its obligations under this section through a program of self-insurance.

7. **Waiver of Subrogation.** Notwithstanding anything to the contrary contained in the Lease, Lessor and Lessee each waives any claims arising out of or relating to the Lease that it may have against the other to the extent such claims are covered by property insurance policies actually carried or required to be carried under the Lease. Lessor and Lessee agree that they will cause their respective insurers to issue appropriate waiver of subrogation rights provisions to all property insurance policies required to be carried under the Lease.

8. **Default by Lessor.** Notwithstanding anything to the contrary contained in the Lease, and except for circumstances of Force Majeure, in the event of any default by Lessor in the performance of its obligations in Section 5 (peaceable enjoyment), Section 8 (radioactive or hazardous substances on the Premises) or Section 10 (access to the Premises) under the Lease, Lessee will have the following rights:

(a) In the event of an emergency that adversely affects the health, safety or welfare of Lessee's employees, customers, guests or invitees or adversely affects Lessee's ability to conduct normal business operations from the Premises (collectively, an "**Emergency Default**"), and if Lessor fails to commence a cure for such Emergency Default within one business day after notice regarding the same, or if Lessor fails to diligently pursue such cure to completion, then Lessee shall have the right to exercise such self-help measures as may be reasonably necessary to cure the Emergency Default. Any costs and expenses so incurred by Lessee (plus a fee equal to 15% of the cost to cure such Emergency Default as an administrative fee) shall be reimbursed by Lessor upon demand, or at Lessee's option deducted from any rent due or becoming due.

(b) If Lessor fails to cure any default not otherwise falling within subsection (a) above within 20 days after written notice of such default, or if Lessor fails to diligently pursue such cure to completion, Lessee shall have the right, in its sole discretion, to exercise such self-help measures as may be reasonably necessary to cure the default. Any costs and expenses so incurred by Lessee (plus a fee equal to 15% of the cost to cure such default as an administrative fee) shall be reimbursed by Lessor upon demand, or at Lessee's option deducted from any rent due or becoming due.

(c) If Lessor fails to cure any default within 30 days after receipt of written notice of such default, Lessee shall have the right to terminate the Lease, without penalty, upon written notice to Lessor, such termination to be effective as of the termination date designated on Lessee's termination notice.

(d) Whether or not Lessee exercises its self-help right as provided in this section, rent shall be abated from the date following expiration of the cure period until the date the specified default is cured by Lessor.

9. **Notice Address.** Notwithstanding anything to the contrary contained in the Lease, for the purpose of any notice or other communication under the Lease, Lessor's Address and Lessee's Address are amended to be as follows:

If to Lessor: City of Warrenton
 Attn: Terri Thorn, Director of Operations
 204 West Booneslick
 Warrenton, MO 63347

If to Lessee: Charter Communications Entertainment I, LLC
 c/o Charter Communications
 6399 S. Fiddlers Green Circle
 Suite 600
 Greenwood Village, Colorado 80111

Attn: DTZ Americas/Charter Lease Administration
Charter File No.: MO 0004

With a copy to: Charter Communications Entertainment I, LLC
c/o Charter Communications
6399 S. Fiddlers Green Circle
Suite 600
Greenwood Village, Colorado 80111
Attn: Kathy Carrington, SVP
Charter File No.: MO 0004

Except for an Emergency Default, any notice or other communication required or permitted under the Lease must be in writing and may be given by personal delivery, by being deposited with any nationally recognized overnight carrier that routinely issues receipts, or by being deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, addressed to the party for whom it is intended at its address set forth above. Any such notice shall be deemed delivered upon (but not until) receipt or refusal of receipt. Notwithstanding the foregoing, during an Emergency Default, Lessee may give notice to Lessor via email at: tthorn@warrenton-mo.org; via facsimile at: 636-456-8135; or via telephone to the following 24-hour emergency line: 636-456-3535, and the same shall be deemed to have satisfied the notice requirements under the Lease.

Either Lessor or Lessee may add additional addresses or change its address for purposes of receipt of any such communication by giving 10 days prior written notice of such change to the other party in the manner prescribed in this section.

10. Renewal Option. Notwithstanding anything to the contrary contained in the Lease, Lessee will have the option to renew the term of the Lease for two additional terms of five years each (each, a "**Renewal Term**"), subject to the further provisions of this section.

(a) Lessee must exercise the option with respect to each Renewal Term, if at all, by giving notice of exercise ("**Lessee's Renewal Notice**") to Lessor on or before the date that is 90 days prior to the then applicable expiration date.

(b) Each Renewal Term will be on the same terms and conditions as the Lease, except the annual rent, which shall be subject to mutual agreement of the parties, but in no event shall annual rent increase by more than 3% per year during each year of the applicable Renewal Term.

11. Disputes.

(a) Any claim, controversy or dispute arising out of or relating to the Lease,

or the breach thereof, shall be resolved fully and finally by binding arbitration under the Commercial Rules, but not the administration, of the American Arbitration Association, except to the extent that the Commercial Rules conflict with the provision of this section, in which event the provisions of this section shall control. The provisions of this section shall not limit the right of Lessor prior to or during any such dispute to seek, use, and employ ancillary, or preliminary or permanent rights and/or remedies, judicial or otherwise, for the purpose of maintaining the status quo until such time as the arbitration award is rendered or the dispute is otherwise resolved. Within 10 calendar days of service of a Demand for Arbitration, the parties may agree upon a sole arbitrator, or if a sole arbitrator cannot be agreed upon, a panel of three arbitrators shall be named. One arbitrator shall be selected by Lessor and one shall be selected by Lessee. A knowledgeable, disinterested and impartial arbitrator shall be selected by the two arbitrators so appointed by the parties. If the arbitrators appointed by the parties cannot agree upon the third arbitrator within 10 days, then either party may apply to any judge in any court of competent jurisdiction for appointment of the third arbitrator. There shall be no discovery during the arbitration other than the exchange of information that is provided to the arbitrator(s) by the parties. The arbitrator(s) shall have the authority only to award equitable relief and compensatory damages, and shall not have the authority to award punitive damages or other non-compensatory damages. The decision of the arbitrator(s) shall be rendered within 60 days after the date of the selection of the arbitrator(s) or within such period as the parties may otherwise agree. Each party shall be responsible for the fees, expenses, and costs incurred by the arbitrator appointed by that party, and the fees, expenses and costs of the third arbitrator (or single arbitrator) shall be borne equally by the parties. The decision of the arbitrator(s) shall be final and binding and may not be appealed. Any party may apply to any court having jurisdiction to enforce the decision of the arbitrator(s) and to obtain a judgment thereon.

(b) Notwithstanding the foregoing, the following claims, controversies or disputes need not be resolved by arbitration: (i) any action by Lessor that seeks repossession of the Premises as part of Lessor's remedy, (ii) any action by Lessor or Lessee seeking an injunction or temporary restraining order, and (iii) any action by Lessor or Lessee seeking any prejudgment remedy. Further, the parties may cancel or terminate the Lease in accordance with its terms and conditions without being required to follow the procedures set forth in this section.

12. Broker. Lessor and Lessee respectively represent and warrant to each other that neither of them has consulted or negotiated with any broker or finder with regard to the Premises, except DTZ Americas Inc. ("Lessee's Broker"). Lessee will pay Lessee's Broker a fee or commission pursuant to a separate agreement between them.

13. Estoppel. Lessor hereby represents and warrants that as of the date of execution of this Amendment, (a) Lessee is not in default or breach of the Lease; (b) no event has occurred which with the passage of time or the giving of notice would constitute such a breach or default of the Lease; and (c) all rent, additional rent and other amounts due and payable under the Lease have been paid in full through and including February 28, 2015.

14. Confirmation of Lease. Lessor and Lessee confirm and ratify in all respects, the terms and conditions of the Lease, as amended by this Amendment.

15. Drafting. This Amendment has been prepared by Lessee and its professional advisors and reviewed by Lessor and its professional advisors. Lessor, Lessee and their separate advisors believe this Amendment is the product of all of their efforts, that it expresses their agreement and that it should not be interpreted in favor of either Lessor or Lessee or against either Lessor or Lessee merely because of their efforts in preparing it.


16. Counterparts. This Amendment may be signed and delivered by facsimile or electronically and the same facsimile or "pdf" signatures shall constitute original signatures hereof with all force and effect of law. This Amendment may be executed in counterparts, each of which will constitute an original and all of which together shall constitute one and the same document.

17. Lender's Consent. The effectiveness of this Amendment is not conditioned upon Lessor receiving any lender's consent.

Lessor and Lessee have executed this Amendment as of the Effective Date first set forth above.

LESSOR:

The City of Warrenton, Missouri,
a municipal corporation

By: 
Name: Michael Shiltorrey
Title: Mayor
Date: 3-3-2015

ATTEST:

By: 
City Clerk

LESSEE:

Charter Communications Entertainment I, LLC, a Delaware limited liability company

By: **Charter Communications, Inc.,**
a Delaware corporation, its Manager

By: _____
Name: Randy Givan
Title: VP-Real Estate
Date: _____

EXHIBIT A

0.88 ACRES

A tract of land being part of the Southeast Quarter of the Northeast Quarter of Section 29, Township 47 North, Range 2 West, City of Warrenton, Warren County, Missouri, and being described as follows:

Commencing at an old stone at the Southwest Corner of the Southeast Quarter of the Northeast Quarter; thence along the South line of the Southeast Quarter of the Northeast Quarter, North 89°-51' East 365.00 feet to an iron rod at the place of beginning of the said tract of land; thence leaving the said South line, North 00°-32' West 240.00 feet to an iron rod; thence North 89°-51' East 160.00 feet to an iron rod; thence South 00°-32' East 240.00 feet to an iron rod; thence along the South line of the Southeast Quarter of the Northeast Quarter, South 89°-51' West 160.00 feet to the place of beginning and containing 0.88 acres, more or less.

Property ID# MO 0004

