

Hearing Date: June 14, 2011 at 10:00 a.m. (ET)
Response Deadline: June 7, 2011 at 4:00 p.m. (ET)

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Counsel for Reorganized Charter Communications, Inc.

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:)	Chapter 11
Charter Communications, Inc., <u>et al.</u> ,)	Case No. 09-11435 (JMP)
Reorganized Debtors.)	Jointly Administered
)	
)	

NOTICE OF CHARTER COMMUNICATIONS, INC.'S OBJECTION TO PROOF OF CLAIM FILED BY WOLFE REALTY INVESTORS, L.L.C. (CLAIM NUMBER 200)

PLEASE TAKE NOTICE that at **10:00 a.m. (prevailing Eastern Time) on June 14, 2011**, reorganized Charter Communications, Inc. (the "Reorganized Debtor"), by its counsel, shall appear before the Honorable James M. Peck, Bankruptcy Judge of the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court"), in Room 601, One Bowling Green, New York, New York 10004-1408, or as soon thereafter as counsel

may be heard, and present Reorganized Debtor's Objection to Proof of Claim Filed by Wolfe Realty Investors, L.L.C. (Claim Number 200) (the "Objection").

PLEASE TAKE FURTHER NOTICE that the Hearing may be adjourned thereafter from time to time without further notice.

PLEASE TAKE FURTHER NOTICE that responses to the Objection, if any, must comply with the Federal Rules of Bankruptcy Procedure and the Local Rules of the United States Bankruptcy Court for the Southern District of New York, must be set forth in a writing describing the basis therefore and must be filed with the Bankruptcy Court electronically in accordance with General Orders M-182 and M-193 by registered users of the Bankruptcy Court's electronic case filing system (the User's Manual for the Electronic Case Filing System can be found at <http://www.nysb.uscourts.gov>, the official website of the Bankruptcy Court) and, by all other parties in interest, on a 3 ½ inch disk, preferably in Portable Document Format (PDF), Word Perfect or any other Windows-based word processing format (with a hard copy delivered directly to Chambers) and served in accordance with General Order M-182 or by first-class mail upon each of the following: (a) Charter Communications, Inc. and its counsel; (b) the Office of the United States Trustee for the Southern District of New York (Attn: Paul K. Schwartzberg, Esq.); and (c) counsel to the official committee of unsecured creditors, so as to be actually received no later than **June 7, 2011 at 4:00 p.m. (prevailing Eastern Time)**.

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Dated: April 22, 2011

KIRKLAND & ELLIS LLP

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Reorganized Debtors.)	Jointly Administered
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**CHARTER COMMUNICATIONS, INC.'S OBJECTION TO PROOF OF
CLAIM FILED BY WOLFE REALTY INVESTORS, L.L.C. (CLAIM NUMBER 200)**

The above-captioned debtor (the "Reorganized Debtor" or "Charter") files this objection (the "Objection") to claim number 200 (the "Claim") filed by Wolfe Realty Investors, L.L.C. ("Wolfe") and respectfully requests entry of an order, substantially in the form attached hereto as Exhibit A, specifically disallowing the portion of the Claim seeking "Breach of Contract" damages, disallowing the portion of Wolfe's Claim seeking lease rejection damages for "Cost of

Space Improvements,” and additionally disallowing the entirety of the Claim, for Wolfe’s failure to mitigate damages.

INTRODUCTION

In its Proof of Claim, Wolfe Realty Investors, L.L.C. seeks to recover \$2,202,868.06 from Charter—\$1,641,764.11 for “Breach of Contract” and \$561,103.95 for “Lease Rejection” (comprised of \$433,728.15 for “Base Rent” and \$127,375.80 for “Cost of Space Improvements”)—stemming from the rejection of a December 6, 2007 build to suit lease (the “Spring Hill Lease”) entered into by Wolfe and Charter. Wolfe’s Claim for “Breach of Contract” damages should be denied. Wolfe, without citing any authority for its position or support in the record, seeks to characterize the Lease as an executory contract, rather than an unexpired lease. Wolfe thus seeks to recover not only the amount permitted by Bankruptcy Code Section 502(b)(6) for rejection of the unexpired lease, but also a significant additional sum for “Breach of Contract.” Wolfe has provided no legal support for its attempt to re-frame the agreement between the parties as anything other than a lease. Accordingly, Charter respectfully requests that the Court deny Wolfe’s Claim for “Breach of Contract” damages. Additionally, Wolfe’s Claim for lease rejection damages for “Cost of Space Improvements” should be denied because interior space improvements were never made to the property, and therefore Charter’s obligation to make additional rent payments for space improvements never commenced. Charter further maintains that because Wolfe has failed to employ commercially reasonable efforts to mitigate its lease rejection damages, the whole of Wolfe’s Claim should be disallowed on account of such failure.

BACKGROUND

The Spring Hill Lease

Charter leased nonresidential real property located in the Parkway Business Center, Parkway Drive, Spring Hill, Tennessee 37174 (the “Spring Hill Leased Premises”), pursuant to a Lease, by and among Wolfe and Charter, dated as of December 6, 2007 (the “Spring Hill Lease”). A copy of the Spring Hill Lease is attached hereto as Exhibit B.

The Spring Hill Leased Premises cover approximately 23,000 square feet of space. The Spring Hill Lease expires ten years from the commencement date of the lease. The commencement date was tied to the substantial completion of certain improvements to be made to the Spring Hill Leased Premises and those improvements were never substantially completed; accordingly, the full ten-year term remained under the Spring Hill Lease. Charter had intended to use the Spring Hill Leased Premises for cable system offices and for warehouse space. Charter never occupied the Spring Hill Premises, however.

On April 5, 2009, Charter, asserting that various unexpired leases, including the Spring Hill Lease, were burdensome to the Debtors’ estates, and that rejection of those unexpired leases was in the best interest of the Debtors’ estates, moved the Court to authorize and approve expedited procedures for rejecting executory contracts and unexpired leases of personal and non-residential real property, and to authorize the Debtors to reject certain unexpired leases of nonresidential real property, including the Spring Hill Lease. ([Dkt. 111].) On April 14, 2009, Wolfe filed a response, stating that it did “not contest whatever rights the Debtor may have to reject the Agreement -- an executory contract between Wolfe and the Debtor -- but reserves all of its rights to contest the Debtor’s calculation of damages due to Wolfe as a result of such rejection.” (Wolfe Response ¶ 6 [Dkt. 158].) This Court granted Charter’s motion on April 15,

2009, authorizing the Debtors to reject certain unexpired leases, including the Spring Hill Lease. ([Dkt. 186].) Under the terms of this order, each counterparty to a rejected lease was required to file a proof of claim within 30 days of entry of the order.

Wolfe's Claim

On May 6, 2009, Wolfe filed a proof of claim against Charter in its chapter 11 case in the amount of \$2,202,868.06 ("Claim #200" or the "Claim") (attached hereto as Exhibit C). Wolfe contends that the December 6, 2007 document entitled "Build to Suit Lease" is not a true lease, but rather a (1) contract to acquire property and build certain improvements with a reciprocal agreement from Charter to enter into a lease with Wolfe for use of the property, and (2) a "lease itself" in which Wolfe leases the improved property to Charter, who pays rent to Wolfe. (*See* Mar. 2, 2010 Letter from M. Waterman, Counsel for Wolfe, to C. Chen, counsel for Charter (attached hereto as Exhibit D).) Pursuant to this theory, Wolfe asserts that it is entitled to \$2,202,868.06 in damages from Charter, consisting of \$1,641,764.11 in breach of contract damages, \$433,728.15 in capped lease rejection damages for "Base Rent", and \$127,375.80 in capped lease rejection damages for "Cost of Space Improvements."

Charter disputes Wolfe's characterization of the Spring Hill Lease, and the damages to which Wolfe claims it is entitled. The parties attempted to resolve this Claim amicably and without court intervention. The parties exchanged letters and their counsel conferred on several occasions. Despite their efforts, however, the parties were unable to resolve the issues related to this Claim. Charter also served discovery requests on Wolfe, seeking any evidence in support of Wolfe's theory as to the interpretation of the lease that might exist, but none of the documents produced by Wolfe supported its interpretation.

RELIEF REQUESTED

By this Objection and pursuant to Bankruptcy Rule 3007, the Reorganized Debtor requests that the Court enter the proposed order disallowing the portion of Wolfe's Claim seeking breach of contract damages, disallowing the portion of Wolfe's Claim seeking lease rejection damages for "Cost of Space Improvements," and disallowing Wolfe's remaining Claim, for failure to employ commercially reasonable efforts to mitigate damages. A proposed order is attached hereto as Exhibit A.

LEGAL STANDARD

Wolfe, as claimant, bears the ultimate burden of persuasion and must, by a preponderance of evidence, prove the amount and validity of its claim. *In re Reilly*, 245 B.R. 768, 773 (B.A.P. 2d Cir. 2000) ("Once the Appellee offered the evidence refuting the allegations in the proof of claim, the burden shifted to the Appellant. The ultimate burden always rests with the claimant."). Thus, Wolfe bears the burden of proving its claim.

ARGUMENT

I. The December 6, 2007 "Build to Suit Lease" is Solely a Lease—Not a Lease and a Contract.

In an effort to avoid the capped damages provision that applies to rejected leases under Bankruptcy Code Section 502(b)(6) and recover damages for rejection of the Spring Hill Lease simultaneously on two theories, Wolfe attempts to characterize the Spring Hill Lease as both a lease and a separate contract to enter a lease. Wolfe should not succeed in this novel interpretation, however. Wolfe has not, and cannot, cite to any legal authority for its position that the Spring Hill Lease should be construed as an executory contract to enter into a lease.

An examination of the Spring Hill Lease reveals that the parties intended to enter into a lease, not an executory contract. The language of the Spring Hill Lease document itself clearly

reflects this understanding: for example, the document's first page is titled "BUILD TO SUIT LEASE" (see Spring Hill Lease, at 1), and the parties are identified throughout as "Landlord" (Wolfe) and "Tenant" (Charter) (see, e.g., *id.* Art. 1.1(a) and (c)).

The Spring Hill Lease includes conditions precedent to commencement; there is no separate contract between the parties. Because the lease required Wolfe to meet conditions precedent to commencement, and Wolfe did not meet those conditions, the lease period did not commence. Specifically, the keys to the property were not delivered to Charter, the required improvements were not made, and construction was not substantially completed. (See Spring Hill Lease Arts. 1.1(h), 2.2, 3.4.) Wolfe admits that these conditions were not met. (See Wolfe Response ¶ 3.) But the inclusion of such conditions in the lease agreement does not render that agreement an executory contract to enter into a lease, rather than the lease it purports to be.

In *Wonderfair Stores, Inc. of Ariz. v. Walgreen Ariz. Drug Co.*, 511 F.2d 1206 (9th Cir. 1975), the Court of Appeals for the Ninth Circuit considered the validity of a build-to-suit lease, when the lessor (Wonderfair), having filed for bankruptcy under Chapter X of the Bankruptcy Act, sought to avoid the lease and sell the property free and clear of encumbrances. The Wonderfair-Walgreen agreement contained a 20-year term and required Wonderfair to construct a building meeting Walgreen's specifications. The lease term and Walgreen's duty to pay rent were to commence once Wonderfair had successfully completed construction on the building and put Walgreen into possession of the premises. Walgreen had the right to cancel the lease or construct the building itself at Wonderfair's expense if Wonderfair did not finish construction on the building within a specified time limit. Walgreen also had the right to cancel the lease if Wonderfair was unable to secure leases with certain co-tenants of the shopping center. *Id.* at 1208.

Wonderfair argued that, because Walgreen had no duty to pay rent if Wonderfair did not finish construction of the building or secure leases with co-tenants, the lease was therefore not a lease, but rather an executory contract to enter into a lease. *Id.* at 1210-11. The Ninth Circuit rejected Wonderfair’s argument, however, and held that the Wonderfair-Walgreen agreement was a valid transfer of a leasehold estate for several reasons. First, the agreement used present tense words of demise with respect to the premises that were being conveyed (“hereby leases”) while indicating the building would be built in the future. *Id.* at 1211. Second, the agreement gave Walgreen the right to enter the land to construct the building if Wonderfair failed to do so. *Id.* Third, the agreement bound the heirs, assigns, and successors of the parties and stated that the covenant contained in the agreement ran with the land. *Id.*

The Spring Hill Lease contains the same features that convinced the *Wonderfair* court that the Wonderfair-Walgreen agreement was a “lease, vesting present, enforceable property rights in the land in question, rather than an executory contract for a lease, providing for future rights to a building to be constructed.” *Id.* at 1208. The Spring Hill Lease also uses present tense words of demise. (*See* Spring Hill Lease Art. 2.1 (“Landlord leases the Premises to Tenant, and Tenant leases the Premises from Landlord, according to this Lease, for the Term.”).) The Spring Hill Lease also provides Charter the right to complete improvements itself if Wolfe fails to do so. (*See* Spring Hill Lease Art. 3.4 (“Tenant shall have the right, but not obligation, to complete the Improvements and offset the cost thereof.”).) Finally, the Spring Hill Lease also binds the parties’ heirs, successors, and assigns. (*See* Spring Hill Lease Art. 18.6 (“This Lease will bind and inure to the benefit of Landlord and Tenant and their respective successors, heirs, administrators and assigns, except as otherwise provided in this Lease.”).)

This Court should reject Wolfe’s Claim for breach of contract damages under the rationale followed by the *Wonderfair* court, and based on the clear language of the Spring Hill Lease itself. Wolfe has repeatedly failed to provide any compelling legal or factual support for its unusual argument that the Spring Hill Lease is not the lease that it purports to be.

II. To the Extent Damages Arise from the Rejection of the Spring Hill Lease, They Are Capped under Section 502(b)(6) of the Bankruptcy Code.

Bankruptcy Code Section 502(b)(6) sets the maximum amount a landlord may claim as damages on account of a lease rejection, at 15% of the rent reserved for the remaining term of the lease.¹ Section 502(b)(6) is not, however, a formula for determination of damages. Instead, the party claiming rejection damages must first prove that it is entitled to that maximum amount under applicable state law. *See* 11 U.S.C. § 502(b). Therefore, Wolfe must substantiate its purported damages underlying the Claim. A landlord must also appropriately mitigate damages, under both the terms of the lease and state law. *See Nashland Assocs. v. Shumate*, 730 S.W.2d 332, 333-34 (Tenn. Ct. App. 1987) (under Tennessee law, “[t]he burden is upon the landlord to mitigate his damages”) (internal citation omitted). Then, Wolfe’s total claim is subject to the applicable cap under Section 502(b)(6).

¹ Section 502(b)(6) provides that the bankruptcy court shall allow certain claims, except to the extent that such claim is the “claim of a lessor for damages resulting from the termination of a lease of real property, such claim exceeds—(A) the rent reserved by such lease, without acceleration, for the greater of one year, or 15 percent, not to exceed three years, of the remaining terms of such lease, following the earlier of—(i) the date of the petition, and (ii) the date on which such lessor repossessed, or the lessee surrendered, the leased property; plus (B) any unpaid rent due under such lease, without acceleration, on the earlier of such dates.” 11 U.S.C. § 502(b)(6).

Under the Spring Hill Lease, rent is \$12.26 per square foot of the Building per year in 12 equal monthly installments for the 10-year term. (Spring Hill Lease Art. 1.1(k).) The building was estimated to be approximately 23,000 rentable square feet of office and warehouse space, but was ultimately determined to be built as consisting of 23,585 square feet of rentable space. Therefore, the aggregate rent for the 10-year term was \$2,891,521.00. Section 502(b)(6) allows the cap to be the greater of: (1) one year's rent, or (2) 15% of the aggregate rent, but not to exceed the rent for three years of the remaining term. Here, 15% of the aggregate rent (\$433,728.15) is greater than one year's rent (\$289,152.10), but not in excess of three years' rent (\$867,456.30). Therefore, the statutory 15% cap permits total lease rejection damages of no more than \$433,728.15.

III. Wolfe's Claim for "Cost of Space Improvements" Damages Should Be Denied Because the Space Improvements Were Never Made.

In addition to the \$433,728.15 in capped lease rejection damages described above, Wolfe also seeks an extra \$127,375.80 in capped lease rejection damages, based on \$849,172.00 in "Cost of Space Improvements." The Spring Hill Lease defines "Space Improvements" as "[t]hose interior improvements to the Building (and not a part of Landlord's Work) detailed in Plans and Work Drawings approved by Tenant in writing." (Spring Hill Lease, Exhibit C, Work Letter Section 1(j).) Under the Spring Hill Lease, Wolfe was to provide an "allowance" to Charter to be used for expenses such as space improvements, and that allowance would then be repaid by Charter over a ten-year term as "Additional Rent" amounts. (See Spring Hill Lease Arts. 3.5 and 5.2(b), Spring Hill Lease, Exhibit C, Work Letter Section 6(b).) The parties agreed that this allowance for "Fixed Bid of Cost of Space Improvements" would total \$849,172.00 (see Aug. 28, 2008 Final Approval of Final Plans, Fixed Bid of Cost of Space Improvements, and

Working Drawings (attached hereto as Exhibit E), Oct. 16, 2008 Change Order Number One (attached hereto as Exhibit F).)

However, because the building was not erected, Wolfe never actually provided this “allowance” to Charter for the completion of interior space improvements. Therefore, Charter’s obligation to repay Wolfe for these space improvement costs through “Additional Rent” payments never commenced. Wolfe has not provided an explanation of which, if any, space improvement costs it alleges were actually incurred, or why Charter has any obligation to pay for “Cost of Space Improvements,” when the building was not actually constructed. For this reason, the Court should reject Wolfe’s claim for an additional \$127,375.80 for “Cost of Space Improvements.”

IV. Wolfe’s Claim Should Be Disallowed Because Wolfe Failed to Take Commercially Reasonable Efforts to Mitigate Damages.

Even if Wolfe were to prove its lease rejection damages, it must also satisfy its legal and contractual duties to mitigate damages. Tennessee law generally, and the Spring Hill Lease specifically, require Wolfe to mitigate its damages. In Tennessee, the landlord carries the burden of mitigating damages. *Nashland Assocs.*, 730 S.W.2d at 333-34. Additionally, the Spring Hill Lease itself requires Wolfe to use “commercially reasonable efforts” to mitigate damages. (*See* Spring Hill Lease Article 12.4 (“Upon any Event of Default by Tenant, Landlord shall use commercially reasonable efforts to mitigate its damages. Without limiting the foregoing, if Tenant surrenders the keys to the Premises to Landlord even though no Event of Default has occurred under this Lease, the same shall trigger Landlord’s duty to mitigate its damages.”).)

Wolfe has provided only limited information pertaining to its efforts to mitigate its lease rejection damages. In response to discovery requests served on Wolfe for documents evidencing its efforts to mitigate its lease rejection damages, the extent of the documentation provided by

Wolfe indicates that Provision Commercial Real Estate began marketing the real property for sale on April 30, 2009, through signage, commercial listing services, and real estate contacts. (See Aug. 9, 2010 letter (attached hereto as Exhibit G); Apr. 13, 2009 emails (three e-mails related to an attempt by Wolfe to sell an unconstructed pre-fabricated building) (attached hereto as Exhibit H).) These limited efforts by Wolfe to re-sell the property and the pre-fabricated building do not amount to the “commercially reasonable efforts” at mitigation required by Tennessee law and the Spring Hill Lease.

Tennessee courts have not “drawn a bright line regarding the question of what constitutes ‘reasonable efforts to mitigate,’ presumably bowing to the fact-sensitive nature of the inquiry.” *Bellevue Props., L.L.C. v. United Retail, Inc.*, No. M1999-01480-COA-R3-CV, 1999 WL 1086221, at *2 (Tenn. Ct. App. Dec. 3, 1999) (citation omitted). In this case, however, Wolfe has demonstrated only minimal attempts to mitigate damages, which should not be deemed sufficient commercially reasonable efforts in this case. For example, Wolfe could have attempted to re-let the property, as opposed to attempting to sell it outright for a listing price (\$833,000) significantly higher than its 2007 purchase price (\$735,750). Additionally, Wolfe certainly could have made a more serious attempt to re-sell the pre-fabricated building than the meager effort reflected in the April 13, 2009 emails.

Wolfe’s Claim should be disallowed due to the lessor’s failure to take appropriate steps to mitigate its lease rejection damages. Alternatively, to the extent that the Court determines that Wolfe’s Claim is allowed, the Claim should first be reduced due to Wolfe’s failure to use commercially reasonable efforts to mitigate damages, prior to applying the Rule 502(b)(6) cap on lease rejection damages.

CONCLUSION

Charter does not dispute that the lessor of a rejected lease may be permitted to claim certain lease rejection damages, subject to its duty to mitigate damages and the applicable damages cap of Bankruptcy Code Section 502(b)(6). Here, however, Wolfe has failed to appropriately mitigate damages, and its claim should therefore be disallowed. Additionally, there is no legal basis for Wolfe's claim of \$1,641,764.11 for "Breach of Contract" damages as the agreement between the parties was solely an unexpired lease and did not involve a separate executory contract, and there is no basis for Wolfe's claim of \$127,375.80 for "Cost of Space Improvements" because those improvements were never made.

WHEREFORE, the Reorganized Debtor respectfully requests that the Court enter an order (a) disallowing the Claim for "Breach of Contract" damages, (b) disallowing the Claim for "Lease Rejection" damages for "Cost of Space Improvements," (c) disallowing the remainder of Wolfe's Claim for failure to use commercially reasonable efforts to mitigate damages, and (d) granting such additional relief as the Court deems just and proper.

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Hearing Date: June 14, 2011 at 10:00 a.m. (ET)
Response Deadline: June 7, 2011 at 4:00 p.m. (ET)

Dated: April 22, 2011

KIRKLAND & ELLIS LLP

/s/ Bridget K. O'Connor

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Counsel for Reorganized Charter Communications,
Inc.

EXHIBIT A
Proposed Order

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

Charter Communications, Inc., et al.,

Reorganized Debtors.

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Chapter 11

Case No. 09-11435 (JMP)

Jointly Administered

**ORDER DENYING PROOF OF CLAIM FILED BY
WOLFE REALTY INVESTORS, L.L.C. (CLAIM 200)**

Upon Reorganized Debtor's Objection To Proof Of Claim Filed By Wolfe Realty Investors, L.L.C. (Claim Number 200), dated April 22, 2011 (the "Objection")¹ filed by the above-captioned reorganized debtor (the "Reorganized Debtor" or "Charter"), seeking entry of an order disallowing the Claim; and upon consideration of the supporting papers filed in these reorganization cases, and upon the arguments and testimony presented at a hearing before the Court, if any (the "Hearing"), and any responses or objections to the Objection having been withdrawn or overruled on the merits, this Court finds and concludes that the Court has jurisdiction over the subject matter of the Objection and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; this is a core proceeding pursuant to 28 U.S.C. § 157(b); the legal and factual bases set forth in the Objection and on the record at the Hearing establish just cause for the relief granted herein; the relief requested in the Objection is in the best interests of the Reorganized Debtor, its estates and its creditors; and notice of the Objection was sufficient and complies with the Bankruptcy Code, Bankruptcy Rules, and Local Rules, and no other or further

¹ Capitalized terms used but not defined herein shall have the meaning set forth in the Objection.

notice need be provided; and after due deliberation and sufficient cause appearing therefore, it is hereby ORDERED

1. The Objection is granted.
2. As a threshold matter, the Court finds that, as a matter of law, the “Built to Suit Lease” is a single lease agreement subject to the damages cap of 11 U.S.C. § 502(b)(6).
3. The Claim for “Breach of Contract” damages is disallowed on the merits.
4. The Claim for “Lease Rejection” damages for “Cost of Space Improvements” is disallowed on the merits.
5. The entire Claim for “Lease Rejection” damages is disallowed due to Wolfe’s failure to use commercially reasonable efforts to mitigate damages.
6. To the extent that this Order is inconsistent with any prior order or pleading with respect to the Objection in these cases, the terms of this Order shall govern.
7. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation of this Order.

Dated: _____, 2011
New York, New York

HONORABLE JAMES M. PECK
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT B

December 6, 2007 Build to Suit Lease (“Spring Hill Lease”)

BUILD TO SUIT LEASE

This Build to Suit Lease (this "Lease") is entered into by Landlord and Tenant (as defined in Section 1 below) as of the 6th day of ~~November~~, 2007. Landlord and Tenant agree:
DECEMBER

ARTICLE 1--BASIC LEASE INFORMATION

1.1 Basic Lease Information. In addition to the terms that are defined elsewhere in this Lease, these terms are used in this Lease:

- (a) LANDLORD: ^{Wolfe Realty Investors, LLC} Wolfe Company, LLC, a Tennessee corporation.
- (b) LANDLORD'S ADDRESS: Wolfe Company, LLC
3021 Highway 45 By Pass
Suite 101
Jackson, TN 38305
Attn: Wesley Wolfe
- (c) TENANT: Charter Communications, LLC, a Delaware limited liability company.
- (d) TENANT'S ADDRESS: Charter Entity
c/o UGL Equis
6399 S. Fiddlers Green Circle
Suite 600
Greenwood Village, Colorado 80111
Attn: Charter Lease Administration

With a copy to:

Charter Communications
6399 S. Fiddlers Green Circle
Suite 600
Greenwood Village, Colorado 80111
Attn: Kathy Carrington, VP-Corporate Real Estate
- (e) LAND: The real property located in the Parkway Business Center, Parkway Drive, Spring Hill, Tennessee, as more particularly described on Exhibit A, as the same will be modified by the Survey (as defined in Section 15.2 below).
- (f) PREMISES: The Premises shown on Exhibit B to this Lease, which will consist of the Land, the Building, parking and loading areas and all other improvements, to be dimensioned and approximately located on the Land, in an area approved by Tenant.

- (g) **BUILDING:** The building, consisting of approximately 23,000 rentable square feet of office and warehouse space, to be constructed on the Land as described in Article 3 below and the Work Letter.
- (h) **COMMENCEMENT DATE:** The date that the Improvements (as defined in Section 2.2 below) are Substantially Completed (as defined in Section 3.4 below) and keys to the Premises are delivered to Tenant.
- (i) **EXPIRATION DATE:** The date that is 10 Lease Years (as defined in Section 1.1(o) below) after the Commencement Date.
- (j) **TERM:** 10 Lease Years, beginning on the Commencement Date and expiring on the Expiration Date.
- (k) **MONTHLY RENT:** Monthly Rent for the Premises shall be payable as follows:

LEASE YEAR	AMOUNT
1-10	\$12.26 per rentable square foot of the Building per year payable in 12 equal monthly installments

- (l) **PARKING SPACES:** Paved parking spaces for technician parking, staff parking, visitor parking and bucket truck parking; all in accordance with the Work Letter, at no additional charge to Tenant.
- (m) **BROKERS:** (1) Landlord's Broker: None.
(2) Tenant's Broker: Collectively Paul Michaelree of UGL Equis Corporation and Ron Taylor of Provision Commercial Real Estate.
- (n) **RENT:** Monthly Rent and any Additional Rent (as defined in Section 5.1 below) payable by Tenant hereunder.
- (o) **LEASE YEAR:** As used herein, "Lease Year" shall mean a period of 12 consecutive calendar months commencing, if the Commencement Date is the first day of a month, on the Commencement Date. If the Commencement Date is not the first day of a month, "Lease Year" shall mean a period of 12 consecutive calendar months commencing on the first day of the month immediately following the Commencement Date, and the first Lease Year shall include such partial month.
- (p) **ARCHITECTURAL COMMITTEE:** The Parkway Business Center Architectural Review Committee appointed pursuant to the Declaration of Restrictions, Covenants and Conditions and Grant of Easements Parkway Business Center dated December 20, 2005 (the "Declaration").

1.2 Exhibits. The following addendum and exhibits are attached to this Lease and are made part of this Lease:

- EXHIBIT A: Description of the Land
- EXHIBIT B: Depiction of the Premises
- EXHIBIT C: Work Letter

ARTICLE 2--AGREEMENT AND USE

2.1 Lease. Landlord leases the Premises to Tenant, and Tenant leases the Premises from Landlord, according to this Lease, for the Term. Landlord grants Tenant and its employees, customers, guests, licensees, agents and invitees, all easements, rights and privileges appurtenant to the Premises and a license for the Term to use the adjoining driveways, roads, alleys, means of ingress and egress and all other areas and facilities on the Premises that are provided and designated from time to time by Landlord for the general use and convenience of Tenant.

2.2 Premises. The Premises shall consist of the Land, together with: (a) all building improvements thereon outlined as "Landlord's Work" in the Work Letter, including, but not limited, to the Building, electrical, mechanical, plumbing and building system components, parking and loading areas, fenced areas and outside break areas, and (b) the Space Improvements (as defined in Exhibit C) (collectively the "Improvements"); all of which Improvements shall be constructed by Landlord in accordance with the terms of this Lease and the Work Letter attached to this Lease as Exhibit C and incorporated by this reference (the "Work Letter").

2.3 Use. Tenant may use and occupy the Premises for a customer service center, payment center and general offices and administrative uses in support of its telecommunications and cable operations, as the same may be expanded from time to time, together with storage space, warehousing and placement of antennas, dishes, towers and other communications equipment on the Premises, and for any other lawful use. Tenant will not use the Premises for any purpose prohibited by applicable law. Tenant will not commit waste and will not create any nuisance on the Premises. Tenant shall have access to the Premises 24 hours per day, seven days per week, 365 days per year. Within 30 days after execution of this Lease, Landlord shall obtain from the Architectural Committee written approval of Tenant's use and occupancy of the Premises, including, the possible future installation of antennas, dishes, towers and other communications equipment on the Premises, and confirmation that the Architectural Committee will not unreasonably withhold its consent to the installation of any such antennas, dishes, towers and other communications equipment on the Premises. Landlord acknowledges that Tenant's anticipated use of the Premises is a key component of this Lease and if at any time during the Term of this Lease, Tenant is unable to use the Premises for the permitted use set forth herein, Tenant shall have the right to terminate this Lease upon written notice to Landlord.

ARTICLE 3--DELIVERY OF PREMISES

3.1 Landlord's Work. Landlord shall construct and install the Improvements on the Land as outlined in the Work Letter. Landlord shall commence construction of the Improvements no later than 10 days after the receipt of the necessary government approvals and permits, as set forth in Exhibit C, Section 7, attached hereto, and the Improvements shall be Substantially Completed no later than 270 days after the Construction Commencement Date (the "Outside Completion Date").

The Outside Commencement Date shall be extended by delays outside Landlord's control, including but not limited to delays due to weather, labor strikes, governmental agencies, material shortages and delays caused by Tenant, i.e. changes requested by Tenant or delay in delivery of inside finish out drawings. The term "commence construction" as used herein is defined as the beginning of site work on the Land, (i.e., placement of footings and pouring of foundation) and proceeding with the Improvements diligently thereafter. In the event either party fails to timely complete any scheduled task in Section 7 of the Work Letter attached hereto as Exhibit C, and does not complete said task within fifteen (15) business days after delivery of written demand from the other party, the other party shall have the right to terminate this Lease by giving written notice. In the event Landlord does not, after proceeding in good faith, commence construction by the date that is 270 days after the date application is made to the appropriate governmental authorities for necessary approvals and building permits in accordance with Section 7(f) of the Work Letter attached hereto as Exhibit C, then either party shall have the right to terminate this Lease by written notice to the other party.

3.2 Construction of Improvements. Landlord shall, at Landlord's sole cost and expense subject to Section 6 of Exhibit C, construct the Improvements and Substantially Complete all of the Improvements in accordance with this Lease and the terms of the Work Letter and deliver possession of the Premises to Tenant no later than the Outside Completion Date. The Building shall have the dimensions and specifications as shown on Final Plans (as defined in the Work Letter attached hereto). All other design specifications for the Building and other Improvements shall be set forth in the Final Plans, which shall be approved by Tenant in accordance with the terms of the Work Letter.

3.3 Standards for Landlord's Work. Landlord agrees to perform the Improvements in a good and workmanlike manner and in accordance with the Final Plans. Landlord will utilize first quality new materials in construction of all Improvements and shall perform and complete the Improvements in compliance with all applicable laws, ordinances, rules, and statutes. Landlord agrees, at Landlord's expense, to obtain and maintain public liability insurance and worker's compensation insurance adequate to fully protect Tenant as well as Landlord from and against any and all liability for death or injury to person, or, damage to property by reason of performance of the Improvements.

3.4 Delivery of Possession. If the Improvements have not been Substantially Completed in accordance with the Work Letter by the Outside Completion Date, or if Landlord cannot deliver possession of the Premises to Tenant with the Improvements Substantially Completed by the Outside Completion Date for any reason other than a delay caused by Tenant: (a) Rent shall be waived until the Commencement Date; (b) Landlord will pay to Tenant the sum of \$500.00 per day for each day of delay from the Outside Completion Date until the Improvements are Substantially Completed; and (c) within 15 days after Tenant takes possession of the Premises, Landlord and Tenant shall confirm the Commencement Date in writing. In addition to the foregoing, in the event Landlord does not Substantially Complete the Improvements by 60 days after the Outside Completion Date, including any extensions as provided in Section 3.1, for any reason whatsoever other than a delay caused by Tenant, Tenant shall have the right, but not obligation, to complete the Improvements and offset the cost thereof (including a 15% administrative fee) from any Rent due or becoming due. As used in this Lease, the terms "Substantial Completion" and "Substantially Complete(d)" shall mean when (y) Landlord has obtained a final certificate of occupancy for the Premises, and (z) Tenant's architect has certified that construction of the Improvements have been completed in accordance with approved Working Drawings (as defined in the Work Letter), subject only to the completion of "punch list" items that do not materially interfere with Tenant's use of the Premises.

3.5 Improvement Allowance. Landlord shall provide Tenant with an allowance of \$40.00 per rentable square foot of the Building (the "Additional Allowance") to be used by Tenant for the Space Improvements, design costs, architecture costs and other professional fees, fixtures, furniture, cabling, signage and moving expenses. Any unused portion of the Additional Allowance may be used by Tenant toward any Rent due or becoming due. The Additional Allowance shall be amortized and repaid as Additional Rent over a 10-year term with an interest rate of 9.0%. An amortization schedule (the "Additional Allowance Amortization Schedule") shall be delivered to Tenant for Tenant's approval upon Substantial Completion of the Improvements.

3.6 Early Entry. Tenant shall be permitted entry onto the Premises from and after the date Landlord purchases the Land, but prior to the Commencement Date, for the purpose of taking measurements or other information regarding the Premises, installing Tenant's cabling, equipment or fixtures, storing furniture or other materials and for any other purpose permitted by Landlord. Such early entry shall be coordinated with Landlord's general contractor and will be at Tenant's sole risk and subject to all the terms and provisions of this Lease as though the Commencement Date had occurred, except for the payment of Rent, which will commence on the Commencement Date. All rights of Tenant under this section will be subject to the requirements of all applicable building codes, zoning requirements, and federal, state, and local laws, rules, and regulations.

ARTICLE 4--CONDITION OF PREMISES

4.1 Defects. Tenant shall have a period of 30 days from the Substantial Completion of the Improvements to provide Landlord with a list of any defective, incomplete or unsatisfactory items with respect to Improvements. Landlord shall be obligated within a reasonable amount of time not to exceed 30 days to cure any such defective, incomplete or unsatisfactory items. This time provision shall not apply to latent defects, and Tenant shall, during the Term of this Lease, have the right to report to Landlord any latent defects which are in need of repair; and pursuant to Landlord's obligations set forth in Section 3.3 above, Landlord shall, at its sole cost and expense, repair property and correct any such latent defects. In connection therewith, the provisions of Article 3 shall otherwise apply with respect to Landlord's obligations to cure said latent defects.

4.2 Compliance with Laws. Landlord warrants that upon completion of Improvements, the same will comply with all present laws, codes, regulations, ordinances and restrictive covenants or declarations affecting the Premises. If Landlord fails to perform such repairs diligently and continuously until completion, then Tenant may perform such repairs itself and apply the cost of same (plus a 15% administrative fee) against its Rent obligations hereunder, until such costs are offset in full. Landlord shall also be responsible for paying any and all fines or penalties assessed if the Premises or the Improvements fail to meet laws, codes, regulations ordinances, restrictive covenants or declarations during the Term of this Lease.

4.3 Warranty of Landlord's Work. In addition to the Warranty Items (as defined on Schedule 1 of Exhibit C attached hereto), Landlord warrants and guarantees the Improvements to be accomplished in a first class manner with good workmanship and materials for a period of one year from the Commencement Date (the "Warranty Period"). Within 30 days following the Commencement Date, Landlord shall additionally assign to Tenant any and all warranties and guaranties of third parties held by Landlord, except in the event any of such warranties or guaranties are unassignable, in which case Landlord shall upon Tenant's request enforce same for the benefit of

Tenant. The expiration of the Warranty Period shall not affect Landlord's obligations to repair latent defects pursuant to Section 4.1 or Landlord's obligations pursuant to Section 4.2.

ARTICLE 5--RENT

5.1 Monthly Rent. Tenant will pay Monthly Rent to Landlord in advance, at Landlord's Address, on or before the first day of each calendar month of the Term, without notice or demand, except as provided herein. If the Term commences on a day other than the first day of a calendar month or ends on a day other than the last day of a calendar month, then Monthly Rent for such month will be appropriately prorated. Any amounts that this Lease requires Tenant to pay in addition to Monthly Rent will be "Additional Rent."

5.2 Additional Rent.

(a) In addition to Monthly Rent, beginning on the Commencement Date, Tenant will pay the Operating Expenses paid by Landlord in each calendar year or partial calendar year during the Term of this Lease. Operating Expenses shall be paid by Tenant within 30 days after Landlord has delivered to Tenant a copy of the invoice or bill from the taxing authority and/or the insurance carrier, as the case may be, and any other reasonable backup documentation requested by Tenant. As used in this Lease, the term "Operating Expenses" means: (1) Real Estate Taxes (as defined in Section 6.1 below), except special assessments and local improvement district taxes or charges (which shall be the sole responsibility of Landlord) or tax penalties incurred as a result of Landlord's failure to make payments and/or file tax or informational returns when due, assessed, levied confirmed or imposed during the Term of this Lease upon the Premises; and (2) the cost of fire and extended coverage insurance obtained by Landlord pursuant to Section 8.2 (a) below with respect to the Premises. Notwithstanding anything to the contrary contained in this Lease, if Landlord fails to deliver to Tenant a copy of the invoice or bill from the taxing authority and/or the insurance carrier, as the case may be, within one year after the date on such invoice or bill from the taxing authority and/or the insurance carrier, as the case may be, then Tenant shall have no obligation to reimburse Landlord for the cost of the applicable Operating Expense. Time is of the essence with respect to Landlord's delivery obligations hereunder.

(b) In addition to Monthly Rent, beginning on the Commencement Date, Tenant shall pay Landlord in advance, at Landlord's Address, on or before the first day of each calendar month of the Term of this Lease, without notice or demand, except as provided herein, the monthly amount set forth on the Additional Allowance Amortization Schedule.

ARTICLE 6--TAXES

6.1 Obligation for Payment. Landlord shall timely pay all real estate taxes and assessments (the "Real Estate Taxes") assessed, levied, confirmed, or imposed during the Term of this Lease upon the Premises. Notwithstanding anything to the contrary herein, if, by law, any Real Estate Taxes may at the option of the taxpayer be paid in installments (whether or not interest accrues on the unpaid balance of such tax), Landlord may exercise the option to pay such real Estate Taxes (and any accrued interest on the unpaid balance thereof) in installments. In that event, Landlord shall pay the installments that become due during the Term of this Lease as they become due and before any fine, penalty, further interest, or cost may be added to them.

6.2 Right to Contest Taxes. Tenant will have the right to contest the amount or validity, in whole or in part, of any Real Estate Taxes by appropriate proceedings diligently conducted in good faith. Upon the termination of those proceedings, Tenant will pay the amount of such Real Estate Taxes or part thereof as finally determined, the payment of which may have been deferred during the prosecution of the proceedings, together with any costs, fees, interest, penalties, or other related liabilities. Landlord shall cooperate with any such tax protest instituted by Tenant, at no out-of-pocket cost to Landlord.

6.3 Other Impositions. Tenant shall pay when due, all taxes and assessments imposed during the Term upon all personal property, equipment and fixtures owned by Tenant and used or located on the Premises. Tenant will not be obligated to pay local, state, or federal net income taxes assessed against Landlord, local, state, or federal capital levy or profit tax of Landlord, or sales, excise, franchise, gift, estate, succession, inheritance, or transfer taxes of Landlord.

ARTICLE 7--UTILITIES

7.1 Provision of Utilities. Landlord shall, at Landlord's expense, procure all necessary permits, licenses, and authorizations for, and shall cause to be provided, the necessary mains, conduits, pipes, tubes, wires, and other facilities to make water, sewer, gas and electricity available to the Premises by the Commencement Date.

7.2 Payment of Utilities. Tenant will be solely responsible for and will contract with and pay directly the appropriate suppliers for all water, sewer, gas, electricity, heat, power, and other utilities and communications services used by Tenant on the Premises during the Term, whether or not the services are billed directly to Tenant.

7.3 Exterior Lighting. Landlord shall provide adequate lighting of the exterior portions of the Premises and all entrances and exits to the Premises from 30 minutes before dusk until 11 p.m., seven days a week, 365 days a year.

ARTICLE 8--INSURANCE AND WAIVER

8.1 Tenant's Insurance. At all times during the Term of this Lease, Tenant, at its own expense, shall maintain:

- (a) commercial general liability insurance for claims for bodily injury or death and property damage with combined single limits of not less than \$1,000,000 per occurrence;
- (b) insurance coverage on a broad form basis insuring against "all risks of direct physical loss" on Tenant's personal property located on the Premises in an amount not less than their full replacement value; and
- (c) worker's compensation insurance insuring against and satisfying Tenant's obligations and liabilities under the worker's compensation laws of the state in which the Premises are located.

The commercial general liability insurance shall name Landlord as an additional insured, and shall provide that it will not be terminated or decreased below the thresholds required herein during

the Term except after 30 days prior notice thereof to Landlord. Tenant shall have the right to satisfy its obligations under this section through a program of self-insurance.

8.2 Landlord's Insurance.

(a) At all times during the Term of this Lease, Landlord will carry and maintain fire and extended coverage insurance covering the Building, the Premises, and its equipment in amounts not less than their full replacement cost.

(b) Landlord shall also carry commercial general liability insurance with a minimum of \$1,000,000 per occurrence and \$2,000,000 aggregate.

8.3 Waiver of Subrogation. Notwithstanding anything to the contrary contained herein, Landlord and Tenant each waives any and all rights to recover against the other, or against the officers, directors, shareholders, member, partners, joint venturers, employees, agents, customers, invitees or business visitors of such other party, for any loss or damage to such waiving party arising from any cause covered by any property insurance required to be carried pursuant to this section or any other property insurance actually carried by such party. Landlord and Tenant, from time to time, will cause their respective insurers to issue appropriate waiver of subrogation rights endorsements to all property insurance policies carried in connection with the Building or the Premises or the contents of either.

8.4 Indemnification, Waiver, and Release.

(a) Tenant's Indemnification. Tenant will indemnify and hold harmless Landlord, its employees and agents from and against, any and all demands, claims, causes of action, fines, penalties, damages (excluding consequential damages), liabilities, judgments, and expenses (including, without limitation, reasonable attorneys' fees) which arise out of or relate to: (1) the use or occupancy or manner of use or occupancy of the Premises by Tenant or any person claiming under Tenant; (2) any activity, work, or thing done or permitted by Tenant in or about the Premises; or (3) any injury, loss or damage to the person, property or business of Tenant, its employees, agents, or contractors or any invitees entering upon the Premises under the express or implied invitation of Tenant. If any action or proceeding is brought against Landlord or its employees or agents by reason of any such claim for which Tenant has indemnified Landlord, Tenant, upon written notice from Landlord, will defend the same at Tenant's expense with counsel reasonably satisfactory to Landlord.

(b) Landlord's Indemnification. Landlord will indemnify and hold harmless Tenant, its employees and agents from and against, any and all demands, claims, causes of action, fines, penalties, damages (including consequential damages), liabilities, judgments, and expenses (including, without limitation, reasonable attorneys' fees) which arise out of or relate to: (1) the use or occupancy or manner of use or occupancy of the Premises by Landlord or any person claiming under Landlord; (2) any activity, work, or thing done by or at the instruction of Landlord in or about the Premises; or (3) any injury, loss or damage to the person, property or business of Landlord, its employees, agents, or contractors or any invitees entering upon the Premises under the express or implied invitation of Landlord. If any action or proceeding is brought against Tenant or its employees or agents by reason of any such claim for which Landlord has indemnified Tenant, Landlord, upon written notice from Tenant, will defend the same at Landlord's expense with counsel reasonably satisfactory to Tenant.

ARTICLE 9--COMPLIANCE WITH LAWS

9.1 Landlord Compliance. Landlord covenants that, as of the Commencement Date, the Premises will comply with all applicable laws, statutes, ordinances, rules, codes, regulations, orders, and interpretations of all federal, state, and other governmental or quasi-governmental authorities having jurisdiction over the Premises (collectively "Laws"), including, without limitation, the Americans With Disabilities Act of 1990 and all regulations promulgated thereunder (the "ADA"). Further, the Premises shall comply with the Declaration. Landlord will, throughout the Term of this Lease, promptly comply with all Laws, and will cause the Premises to comply with all Laws (including, without limitation, the ADA). Except as otherwise provided herein, such compliance shall be at Landlord's sole cost and expense. Such compliance shall be at Tenant's sole cost and expense if it is required solely and uniquely as a result of Tenant's specific manner of use or occupancy of the Premises. If any modifications are required to be made to the Premises after the Commencement Date as a result of any changes in Laws, the cost of such compliance shall constitute an expense to be borne by Landlord, except if the cost of such compliance exceeds \$7,500, it shall be treated as a "Capital Repair or Improvement" as defined in Section 10.2(b)(iv) hereinafter, and shall be paid in accordance with the provisions in said section. To the extent that such modifications are required solely and uniquely as a result of Tenant's manner of use or occupancy of the Premises such modifications shall be at the sole cost and expense of Tenant.

9.2 Tenant Compliance. Tenant will promptly comply with all Laws relating to Tenant's manner of use or occupancy of the Premises. At its sole cost and expense, Tenant will promptly cause the Premises to comply with all Laws to the extent that such compliance is required solely and uniquely as a result of Tenant's manner of use or occupancy of the Premises.

9.3 Environmental Matters.

(a) Landlord's Obligations.

- (1) Landlord hereby represents and warrants to Tenant that:
 - (A) the Premises are not contaminated by any Hazardous Materials;
 - (B) no portion of the Premises are being used for the treatment, manufacture storage, sale, use or disposal of any Hazardous Waste;
 - (C) no Hazardous Materials are being or have been used, generated, or disposed of on or about the Premises except in compliance with all applicable Environmental Laws.
 - (D) the Premises are not on any governmental list of contaminated properties, nor is any investigation, administrative order or notice, consent order, or agreement for litigation in existence or anticipated with respect to the Premises.
- (2) Landlord covenants that, during the Term of this Lease, it will not cause or permit the treatment, storage, or disposal of any Hazardous Waste in, on or about any part of the Premises by Landlord, its agents, employees, or contractors in violation of any Environmental Laws, and it will permit the introduction of other Hazardous Materials to the Premises only in compliance with all Environmental Laws.

(3) Landlord will be solely responsible for and will defend, indemnify, and hold Tenant, its agents, and employees harmless from and against all direct claims, costs, liabilities and penalties, including reasonable attorneys' fees and costs arising out of or in connection with (i) Landlord's breach of its obligation under this section; or (ii) the removal, cleanup, or restoration of the Premises required by any Environmental Laws, except for any removal, cleanup or restoration caused by Tenant's introduction of Hazardous Materials to the Premises. Landlord's obligations under this section will survive the expiration or other termination of this Lease.

(4) If removal, cleanup or restoration work materially interferes with the Tenant's use of the Premises for a period in excess of 14 days, Tenant may terminate this Lease upon notice to Landlord.

(b) Tenant's Obligations.

(1) Tenant will not cause the storage, treatment or disposal of any Hazardous Materials in, on, or about the Premises in violation of any Environmental Laws. Tenant will not affirmatively allow the Premises to be used or operated in a manner that may cause the Premises or any part thereof to be contaminated by any Hazardous Materials in violation of any Environmental Laws.

(2) Tenant will be solely responsible for and will defend, indemnify, and hold Landlord, its agents and employees harmless from and against all direct claims, costs, and liabilities, including reasonable attorneys' fees and costs arising out of or in connection with (i) Tenant's breach of its obligations in this section; or (ii) Tenant's introduction of Hazardous Materials to the Premises in violation of Environmental Laws.

(c) Mutual Obligations. Each party will promptly notify the other party of (1) any and all enforcement, cleanup, remedial, removal, or other governmental or enforcement cleanup or other governmental or regulatory actions instituted, completed or threatened pursuant to any Environmental Laws relating to any Hazardous Materials affecting any part of the Premises; and (2) all claims made or threatened by any third party against Tenant, Landlord or any part of the Premises relating to damage, contribution, cost recovery, compensation, loss or injury resulting from any Hazardous Materials on or about the Premises or any part of the Premises.

(d) Definitions.

"Hazardous Materials" means asbestos, explosives, radioactive materials, hazardous waste, hazardous substances, or hazardous materials including, without limitation, substances defined as "hazardous substances" in the Comprehensive Environmental Response Compensation Liability Act of 1980, as amended, 42 U.S.C. §§9601-9657 ("CERCLA"); the Hazardous Material Transportation Act of 1975, 49 U.S.C. §§1801-1812; the Resource Conservation Recovery Acts of 1976, 42 U.S.C. §§6901-6987; the Occupational Safety And Health Act of 1970, 29 U.S.C. §§651, et seq., or any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning hazardous materials, wastes or substances now or at any time hereinafter in effect (collectively "Environmental Laws"). "Hazardous Waste" means hazardous waste as defined under the Resource Conservation Recovery Act of 1976, 42 U.S.C. §§6901-6987.

ARTICLE 10--ALTERATIONS; MAINTENANCE AND REPAIRS

10.1 Alterations.

(a) Tenant shall have the right to make any non-structural alterations, additions or improvements to the Premises as Tenant shall desire; provided, however, that Tenant will not make or allow to be made any alterations, additions, or improvements to or of the Premises that violate any applicable Laws. Any structural alterations, additions or improvements to the Premises shall require the prior written consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed. If Landlord fails to consent to or object to any structural alterations, additions or improvements to the Premises within 20 days after receipt of written thereof, then Landlord's consent shall be deemed given. If Landlord timely notifies Tenant of any reasonable objection to such structural alteration, addition or improvement, then such objection notice shall include details of Landlord's objection and recommended changes to make the same acceptable to Landlord. Tenant shall not be required to remove any such alterations, additions or improvements from the Premises upon expiration or earlier termination of this Lease.

(b) Tenant may engage, at Tenant's sole cost and expense, an interior design firm of its choice for the planning, design and documentation of the interior of the Premises with respect to any alterations, additions or improvements to the Premises.

10.2 Maintenance and Repairs.

(a) Except as set forth herein, Tenant will, at its sole cost and expense, maintain the Premises and make repairs, restorations, and replacements to the Premises, including, without limitation, the heating, ventilating, air conditioning, mechanical, electrical, elevator, and plumbing systems, landscaping, outside lighting, roof, walls, foundations, and other structural portions of the Premises and the fixtures and appurtenances to the Premises, as and when needed, to preserve them in good working order and condition, reasonable wear and tear and casualty excepted.

(b) Notwithstanding anything to the contrary contained in Section 10.2(a) above:

(i) if any repair, restoration or replacement to the Premises arises during the Warranty Period, then Landlord shall, at its sole cost and expense subject to any claims under a warranty Landlord may have, cause the repair, restoration or replacement, to be completed in a timely fashion.

(ii) if any repair, restoration or replacement to the Premises arises as a result of defects (either latent or patent) in Landlord's Work, then Landlord shall, at its sole cost and expenses subject to any claims under a warranty Landlord may have, cause the defect to be corrected in a timely manner.

(iii) if any repair, restoration or replacement to the Premises is covered as a Warranty Item, then Landlord shall, at its sole cost and expense subject to any claims under a warranty Landlord may have, cause the Warranty Item to be corrected in a timely manner. To the extent the warranty for the Warranty Item has been assigned to Tenant, Tenant shall be responsible to assert a claim to correct the Warranty Item, but Landlord shall, at no additional cost to Tenant, cooperate with Tenant in making any claims under the warranty.

(iv) if repair, restoration or replacement to the roof, structure, or building and mechanical systems of the Premises, including, without limitation, HVAC, electrical or plumbing) will cost in excess of \$7,500.00 per item or system ("Capital Repair or Improvement"), then the cost of the Capital Repair and Improvement including interest at a rate of 12% per annum (collectively the "Capital Cost") will be a capital expenditure initially paid for by Landlord (subject to reimbursement, as hereinafter more particularly set forth). Once a Capital Repair or Improvement is discovered by Tenant, Tenant shall advise Landlord, in writing, regarding the same. Landlord shall take commercially reasonable steps to contract for, and complete, the Capital Repair or Improvement in a timely manner with a contractor mutually agreed upon by Landlord and Tenant. After the Capital Repair or Improvement is complete, Tenant shall be obligated to pay each month, during the remainder of the Term of this Lease (including any options to extend the Term), Tenant's Monthly Allocation (as defined below) of the Capital Costs. Tenant's Monthly Allocation shall be the quotient resulting from dividing the Capital Cost by the useful life (expressed in number of months) of the Capital Repair and Improvement, as such useful life is specified pursuant to federal income tax regulations or guidelines for depreciation thereof. Tenant's Monthly Allocation shall be paid until the earlier of (i) the Term of this Lease (including any renewals thereof) expires or (ii) the Capital Cost has been fully reimbursed.

All repairs, replacements and improvements will be in quality and class equal to the original work or installations.

(c) If Landlord fails to timely make any repair, restoration or replacement to the Premises as provided above, then Tenant shall have the right, but not obligation, to take self-help measures as may be appropriate to complete the same, and either deduct the cost of the repair, restoration or replacement (plus a 15% administrative fee) from any Rent due or becoming due, or invoice Landlord for the same whereupon Landlord shall pay such invoice within 10 days after receipt of the same. Upon completion of the self-help measures, Tenant shall invoice Landlord for the same whereupon Landlord shall pay such invoice within 10 days after receipt of the same. If Landlord fails to timely pay Tenant, then Tenant may deduct the cost of the repair, restoration or replacement (plus a 15% administrative fee) from any Rent due or becoming due. Tenant's exercise of its self-help measures shall not negate the obligation to pay Tenant's Monthly Allocation, if applicable. If Tenant fails to make any repair, restoration, or replacement to the Premise as provided above, then Landlord shall have the right, but not obligation, to take self-help measures as may be appropriate to complete the same, and the cost of the repair, restoration or replacement will be collectible as Additional Rent to be paid by Tenant within 15 days after delivery of a statement and back-up documentation for the expense.

(d) Notwithstanding anything to the contrary contained herein, in the event of an emergency that poses an imminent threat to the health, safety or welfare of the occupants of the Building or an imminent threat to the safety of the Building, Tenant may take immediate action to make any repair, restoration or replacement to the Premises without providing Landlord prior written notice of the same and opportunity to cure. Any such self-help action shall be treated the same as if Landlord had failed to timely make any repair, restoration or replacement, except that a 15% administrative fee shall not be applicable to the cost of the repair, restoration or replacement.

(e) During the Term of this Lease, Tenant shall enter into a regularly scheduled preventive maintenance/service contract with a maintenance contractor for servicing the HVAC and equipment within the Premises. A copy of the preventive maintenance/service contract will be delivered to Landlord within 30 days after receipt of written request therefor. Should Tenant fail to enact such preventive maintenance/service contract, Landlord may do so on Tenant's behalf, and Tenant shall pay Landlord upon demand such associated costs.

ARTICLE 11--END OF TERM

11.1 End of Term. At the end of this Lease, Tenant will promptly quit and surrender the Premises broom-clean, in good order and repair, ordinary wear and tear and casualty excepted. Tenant will remove all of Tenant's personal property, signage, and equipment.

11.2 Holdover. If, after expiration of this Lease, Tenant remains in possession of the Premises and continues to pay Rent without a written agreement as to such possession, then such tenancy will be regarded as a month-to-month tenancy, at a monthly rental, payable in advance, equivalent to the Monthly Rent payable during the first Renewal Term (as define in Article 14 below) of this Lease, and subject to all the terms and conditions of this Lease.

ARTICLE 12--DEFAULT BY TENANT

12.1 Events of Default. The occurrence of any one of the following events shall constitute an "Event of Default" hereunder by Tenant:

(a) The failure by Tenant to make any payment required to be made by Tenant hereunder within 30 days after notice from Landlord of such failure.

(b) Unless otherwise specifically noted in this Lease, the failure by Tenant to observe or perform any of the covenants or other provisions of this Lease to be observed or performed by Tenant, where such failure continues for a period of 30 days after notice thereof from Landlord to Tenant; provided that if the nature of Tenant's default is such that more than 30 days are reasonably required for its cure, then an Event of Default shall not be deemed to have occurred if Tenant commences such cure within said 30-day period and thereafter diligently prosecutes such cure to completion.

12.2 Remedies of Landlord. Upon the occurrence of an Event of Default, Landlord shall have the following rights:

(a) To terminate this Lease, in which case Tenant's right to possession of the Premises will cease and this Lease will be terminated as if the expiration of the Term fixed in such notice were the end of the Term.

(b) To lawfully reenter and take possession of the Premises, expel Tenant and remove the effects of Tenant, using such force for such purposes as may be necessary, without being liable for prosecution, and without prejudice to any remedies for arrears of Monthly Rent or other amounts payable under this Lease. In such case, Landlord may, without being obligated to and without terminating this Lease, relet the Premises for the account of Tenant on such conditions and terms as Landlord may determine, and Landlord may collect and receive the rent. Tenant will pay to Landlord Monthly Rent and other sums as provided in this Lease that would be payable under this Lease if such repossession had not occurred, less the net proceeds, if any, of any reletting of the Premises after deducting all of Landlord's reasonable expenses in connection with such reletting.

(c) To cure any Event of Default and to charge Tenant for the cost of effecting such cure, including, without limitation, reasonable attorneys' fees and interest provided that Landlord will have no obligation to cure any such Event of Default of Tenant.

12.3. Remedies Not Exclusive. Each right and remedy provided for in this Lease is cumulative and is in addition to every other right or remedy provided for in this Lease or at law or in equity.

12.4 Duty to Mitigate. Upon any Event of Default by Tenant, Landlord shall use commercially reasonable efforts to mitigate its damages. Without limiting the foregoing, if Tenant surrenders the keys to the Premises to Landlord even though no Event of Default has occurred under this Lease, the same shall trigger Landlord's duty to mitigate its damages.

ARTICLE 13--DEFAULT BY LANDLORD

In the event of any default by Landlord in the performance of its obligations under this Lease, Tenant will deliver to Landlord written notice of such default.

(a) If Landlord fails to cure such default within 30 days after written notice of such default (the "Cure Period"), Tenant shall have the right, in its sole discretion, to exercise such self-help measures as may be reasonably necessary to cure Landlord's default; provided, however, if the nature of Landlord's default is such that more than 30 days are reasonably required for its cure and the same does not material affect Tenant's use of the Premises, then Tenant shall have no self-help rights if Landlord commences such cure within said 30-day period and thereafter diligently prosecutes such cure to completion. Notwithstanding the foregoing, in the event of an emergency, Tenant shall have the right, in its sole discretion, to exercise such self-help measures as may be reasonable necessary to preserve the Premises and/or to limit damage to the Premises or to Tenant's equipment or business operations without advance notification to Landlord; however, as is reasonably practicable after such event of emergency, Tenant shall notify Landlord of the same. Any costs and expenses incurred by Tenant to cure such default shall be reimbursed by Landlord upon demand. Whether or not Tenant exercises its self-help right, Rent shall be abated from the date following expiration of the Cure Period until the date the specified default is cured by Landlord.

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

ARTICLE 14--OPTION TO RENEW

Tenant will have the option to renew the Term of this Lease for two renewal terms of five years each (each, a "Renewal Term"), subject to the further provisions of this section.

(a) Tenant must exercise the option with respect to the Renewal Term, if at all, by giving notice of exercise ("Tenant's Notice") to Landlord on or before the date that is 180 days prior to the applicable Expiration Date.

(b) Each Renewal Term will be on the same terms and conditions as this Lease, except (i) Monthly Rent, which shall be payable as follows:

First Renewal Term, if exercised	\$13.48 per rentable square foot of the Building per year payable in 12 equal monthly installments
Second Renewal Term, if exercised	\$14.16 per rentable square foot of the Building per year payable in 12 equal monthly installments

and (ii) there shall be no monthly amount for the Additional Allowance Amortization Schedule. It being understood that all amounts due under the Additional Allowance Amortization Schedule will have been paid in full.

ARTICLE 15--TITLE MATTERS

15.1 Status of Title. Landlord represents and warrants to Tenant that prior to the Commencement Date Landlord will own the Land free and clear of all liens and encumbrances other than those previously disclosed to Tenant in writing.

15.2 Title Review. Landlord shall, on the execution of this Lease, provide Tenant and Tenant's attorney (Fisher, Sweetbaum, Levin & Sands, P.C., located at 1125 17th Street, Suite 2100, Denver, Colorado, 80202; Attn: Edie M. Suhr, Esq.) with a current title report covering the Premises, legible copies of all documents evidencing exceptions to title (the "Title Documents"), and a copy of a survey of the Land detailing the legal description of the Land and depicting the boundaries of the Land (the "Survey"). If any title matter revealed in the Title Documents, survey matters revealed in the Survey or physical inspection of the Land would prohibit or restrict Tenant's use of the Premises for the purpose intended, as determined by Tenant, or otherwise materially affect Tenant's rights under this Lease, as determined by Tenant, then Tenant may, by written notice to Landlord, terminate this Lease; provided, however, if Tenant fails to exercise its termination right under this section within 10 business days after receipt of the Title Documents or the Survey, whichever is later, then Tenant shall be deemed to have waived such right.

15.3 Zoning. Landlord represents and warrants that the Premises can be used by Tenant for the purposes originally intended by Section 2.3 above and Tenant's ability to do so is a condition precedent to this Lease. Should Tenant discover that zoning is not as represented herein by Landlord, Tenant may, at its option, terminate this Lease upon notice to Landlord. If Tenant terminates this Lease as set forth in this Section 15.3, Landlord shall refund any and all pre-paid Rent paid by Tenant. Landlord covenants and agrees to fully cooperate and provide assistance to Tenant in obtaining certificates of occupancy, building permits, sign permits, and any variances for Tenant's use and occupancy of the Premises.

15.4 Subordination. This Lease and Tenant's rights under this Lease are subject and subordinate to any ground or underlying lease, mortgage, indenture, or deed of trust or other lien or encumbrance (each a "Superior Lien"), together with any renewals, extensions, modifications, consolidations and replacements of such Superior Lien, now or after the date of this Lease affecting

or placed, charged or enforced against the Premises or any interest of Landlord in the Premises or Landlord's interest in this Lease and the leasehold estate created by this Lease (except to the extent any such instrument will expressly provide that this Lease is superior to such instrument). Notwithstanding the foregoing, such subordination shall not be effective unless the holder of such Superior Lien shall deliver to Tenant a written agreement reasonably satisfactory to Tenant, that Tenant's rights under this Lease shall not be disturbed by such holder so long as Tenant has paid all amounts then owing and is otherwise not in default under this Lease. Tenant will execute, acknowledge and deliver to Landlord within 20 days after written demand by Landlord such documents as may be requested by Landlord or the holder of any Superior Lien to confirm or effect any such subordination, priority, or non-disturbance.

15.5 Non-Disturbance. Concurrent with Landlord's purchase of the Land, Landlord shall deliver to Tenant a Non-Disturbance and Attornment Agreement from all then-current holders of a Superior Lien, if any. Such Non-Disturbance and Attornment Agreement shall be in form and content satisfactory to Tenant. If the Non-Disturbance and Attornment Agreement is not so delivered, Tenant may, at its option, terminate this Lease by written notice to Landlord. Landlord shall use its best efforts to obtain the Non-Disturbance and Attornment Agreement from any future lender or ground lessor within 30 days of obtaining financing from such lender.

15.6 Quiet Enjoyment. Provided Tenant pays Rent and performs all of the other material covenants and conditions of this Lease to be performed by the tenant hereunder, Tenant shall be entitled to the quiet enjoyment and possession of the Premises without hindrance, disturbance, or molestation by Landlord, subject to the terms and conditions of this Lease.

ARTICLE 16--PARKING

Landlord shall, as part of Landlord's Work described in the Work Letter, construct and provide to Tenant, at no additional charge to Tenant, the Parking Spaces, to be provided in outdoor parking facilities located on the Premises, which Parking Spaces shall be for the exclusive use of Tenant and its employees, agents, customers, guests, licensees, and invitees. The location of such Parking Spaces shall be approved by Tenant as part of the Final Plans. Tenant shall have the right, if necessary, to post signs to enforce these parking provisions and the right to tow cars from the Premises. Overnight parking shall be permitted in the Parking Spaces.

ARTICLE 17--CONDEMNATION AND CASUALTY

17.1 Condemnation. If all of the Premises are taken by exercise of the power of eminent domain (or conveyed by Landlord in lieu of such exercise) this Lease will terminate on a date (the "Termination Date") which is the earlier of the date upon which the condemning authority takes possession of the Premises or the date on which title to the Premises is vested in the condemning authority. If more than 25% of the rentable area of the Premises is so taken, more than 25% of the Parking Spaces, or if an area critical to Tenant's operations (in Tenant's sole determination) is so taken, then Tenant will have the right to cancel this Lease by written notice to Landlord given no later than 20 days after the Termination Date. If less than 25% of the rentable area of the Premises, and less than 25% of the Parking Spaces, and no area critical to Tenant's operations is so taken, or if the Tenant does not cancel this Lease according to the preceding sentence, the Monthly Rent will be abated in the proportion of the rentable area of the Premises so taken to the rentable area of the Premises immediately before such taking, and Landlord shall repair any damage to the Premises caused by the taking and restore the Premises, such that a whole unit (less the area taken) is fully

useable by Tenant. In the event of any such taking, the entire award will be paid to Landlord and Tenant will have no right or claim to any part of such award; however, Tenant will have the right to assert a claim against the condemning authority in a separate action, so long as Landlord's award is not otherwise reduced, for (a) Tenant's moving expenses, (b) leasehold improvements owned by Tenant, and (c) the value of Tenant's unexpired lease term.

17.2 Restoration of Remaining Premises Following Condemnation. If both Landlord and Tenant elect not to so terminate this Lease, Tenant shall remain in that portion of the Premises which shall not have been appropriated or taken, and Landlord agrees, at Landlord's cost and expense, as soon as reasonably possible, to restore the remaining portion of the Premises to a complete unit of like quality and character as existed prior to such appropriation or taking, and thereafter all Rent and payment obligations of Tenant shall be adjusted on an equitable basis, taking into account the relative value of the portion taken as compared to the portion remaining. For the purpose of this Section, a voluntary sale or conveyance in lieu of condemnation, but under threat of condemnation shall be deemed an appropriation or taking under the power of eminent domain.

17.3 Repair Following Damage of Destruction. In the event the Premises on the Building are hereafter damaged or destroyed or rendered partially untenable for their purpose set forth in this Lease, by fire or other casualty insured or which should have been insured under the coverage which Landlord is obligated to carry pursuant to this Lease, then Landlord shall within 90 days after such casualty restore the Premises to substantially the same condition in which they existed immediately prior to the occurrence of the casualty, except as otherwise provided in this section; and, provided that Landlord shall not be obligated to expend for such repair any amount in excess of the insurance proceeds recovered as a result of such damage or which would have been recovered had Landlord maintained such insurance required hereunder, and that in no event shall Landlord be required to repair or replace any of Tenant's property. From the date of such casualty until the Premises are so repaired and restored Rent and all other charges and items payable hereunder shall abate in such proportion as the part of the Premises thus destroyed or rendered untenable bears to the total Premises.

17.4 Right to Terminate Lease. In the event that 50% or more of the Premises, or the Building are destroyed or rendered untenable by fire or other casualty (based upon the cost to replace the Premises damaged or destroyed as compared with the market value of the improvements on said Premises immediately prior to such fire or other casualty, as shown by certificate of Landlord's architect), or if the repair and restoration of the Premises will take longer than 120 days to complete, in the reasonable estimation Landlord and Tenant, then either Landlord or Tenant may terminate this Lease effective as of the date of the casualty, by giving the other party notice of termination within 30 days of such casualty. If said notice of termination is given within such 30-day period, this Lease shall terminate and Rent and all other charges shall abate as aforesaid from the date of such casualty, and Landlord shall promptly repay to Tenant any Rent paid in advance which has not been earned as of the date of such casualty. If such notice is not given Landlord shall be required to repair or rebuild the Premises as provided in Section 17.3 above.

ARTICLE 18--GENERAL

18.1 Assignment and Subletting. Tenant will not sublease all or a part of the Premises, and will not assign this Lease or any interest in this Lease, without the prior written consent of Landlord, which will not be unreasonably withheld, conditioned, or delayed. If Landlord does not consent or object in writing to such proposed sublease or assignment within 20 days after its receipt of Tenant's request for consent, Landlord's consent will be deemed given. Notwithstanding anything to the

contrary contained in this Lease, Tenant shall have the right to sublet all or a portion of the Premises or to assign this Lease, without Landlord's consent, to any of Tenant's Affiliates (as defined below) or to any Communications Purchaser (as defined below). Any such subtenant or assignee shall have a similar right to sublet or assign this Lease, without Landlord's consent, to any of Tenant's Affiliates or to any Communications Purchasers. As used herein, "Tenant's Affiliates" means any corporation or other entity that controls, is controlled by, or is under common control with, Tenant, or any corporation or other entity that results from a merger or consolidation with Tenant. As used herein, "Communications Purchaser" means any purchaser of all or a portion of the communications systems, equipment or business operations of Tenant or Tenant's Affiliates located on or related to the Premises. Upon any assignment of this Lease as permitted by this section, Tenant shall be relieved of all obligations and liabilities arising hereunder after the date of the assignment. No transfer or assignment of the stock of Tenant, or any ownership interest in Tenant, whether by sale, merger, exchange or other means, shall constitute an assignment of this Lease. Notwithstanding anything to the contrary contained in this Lease, Tenant shall have the right, without Landlord's consent, to grant another company or entity (the "Co-locator") to collocate antennas or other equipment on, about, in or around Tenant's facilities on the Land.

18.2 Notices. Any notice or other communication required or permitted under this Lease must be in writing and will be deemed to have been given when personally delivered, deposited with any nationally recognized overnight carrier that routinely issues receipts, or 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 in Section 1.1. Either Landlord or Tenant 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.

18.3 Brokers. Landlord and Tenant 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 the Brokers named in Section 1.1, if any. Landlord and Tenant each will indemnify the other against and hold the other harmless from any claims for fees or commissions from any other broker or finder with whom it has consulted or negotiated with regard to the Premises. Pursuant to a separate agreement, Landlord shall pay Tenant's Broker a commission equal to 5% of the Monthly Rent for the initial Term of this Lease.

18.4 Signs. Tenant shall be entitled to install, at its sole cost and expense and in compliance with all applicable Laws, signs on the Premises containing Tenant's name, logo, and other pertinent business information.

18.5 Governing Law. This Lease will be governed by the internal laws of the state in which the Project is located, without reference to its conflict of laws provisions.

18.6 Binding Effect. This Lease will bind and inure to the benefit of Landlord and Tenant and their respective successors, heirs, administrators and assigns, except as otherwise provided in this Lease.

18.7 Disputes.

(a) Any claim, controversy or dispute arising out of or relating to this 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 this provision, in which event, this Lease shall control. This arbitration provision shall not limit the right of Landlord 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 purposes 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 Landlord and one shall be selected by Tenant. 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 calendar 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 calendar 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 each 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, at Landlord's option, the following claims, controversies or disputes need not be resolved by arbitration: (1) any action by Landlord that seeks repossession of the Premises as part of Landlord's remedy or payment of Rent provided that Tenant has not made any claim of offset or abatement of Rent as provided in this Lease, (2) any action by Landlord or Tenant seeking an injunction or temporary restraining order, and (3) any action by Landlord or Tenant seeking any prejudgment remedy. Further, the parties may cancel or terminate this Lease in accordance with its terms and conditions of this Lease without being required to follow the procedures set forth in this Section.

18.8 Authority. Tenant and Landlord each represent to the other party that each of the parties executing this Lease on behalf of Tenant or Landlord, as the case may be, is authorized to do so by requisite action of their respective companies.

18.9 Time of the Essence. Time is of the essence for the performance of all obligations under this Lease.

18.10 Gender. Masculine or feminine pronouns may be substituted for each other or for the neuter form or vice versa, and the plural may be substituted for the singular or vice versa in any place or places herein where the contract requires such substitutions.

18.11 Waiver of Landlord's Lien. Landlord hereby waives any contractual, statutory or other Landlord's lien on Tenant's personal property, equipment and fixtures.

18.12 Severability. If any provision of this Lease shall be determined to be invalid or unenforceable by a court of competent jurisdiction, such determination shall in no way affect, impair

or invalidate any other provision of this Lease, and all other provisions hereof shall remain in full force and effect.

18.13 Estoppel Certificates. At any time and from time to time but within 10 days after prior written request by either Tenant or Landlord, the other party will execute, acknowledge and deliver to the requesting party a certificate certifying (a) that this Lease is unmodified and in full force and effect or, if there have been modifications, that this Lease is in full force and effect, as modified, and stating the date and nature of each modification; (b) the date, if any, to which Rent and other sums payable under this Lease have been paid; (c) that no written notice of any default has been delivered by the certifying party, which default has not been cured, except as to defaults specified in said certificate; and (d) to the best of the certifying party's knowledge, there is no Event of Default under this Lease or an event which, with notice or the passage of time, or both, would result in an Event of Default under this Lease, except for defaults specified in said certificate. Any such certificate may be relied upon by any prospective purchaser, lease assignee, or sublessee, or existing or prospective mortgagee or beneficiary under any deed of trust of the Building or any part of the Land.

18.14 Rooftop Antenna, Satellite Dish, or Other Communications Equipment. Tenant may construct and install, at Tenant's sole cost and expense, one or more antennae and satellite dishes or other communications equipment on the roof of the Building. Tenant may operate and maintain such communication equipment, antennae and satellite dishes or other communications equipment at no additional cost or expense. The location of such communications equipment, antennae and satellite dishes and all plans and specifications for installation of the same shall be subject to the prior written approval of Landlord, which approval shall not be unreasonably withheld or delayed. Tenant shall obtain any and all permits, consents or governmental approvals as may be reasonable or necessary for the installation or operation of such communications equipment, antennae or satellite dishes.

18.15 Tenant's Name. Landlord is prohibited from using Tenant's name, logo, mark, or any other identifying symbol as a business reference, in any advertising or sales promotion, or in any publicity matter without Tenant's prior written consent.

18.16 Confidentiality. Except to the extent such disclosure is required by applicable laws, Landlord shall not disclose, and shall ensure that its partners, joint venturers, members, managers, and employees do not disclose, the Monthly Rent and other terms of this Lease to any person or entity other than Landlord's lenders, partners, joint venturers, members, managers, employees, and professional advisors. Before any such disclosure to Landlord's lenders or professional advisors, Landlord shall notify such lenders and professional advisors of the confidential nature of the terms of this Lease and prohibit further disclosure of same by such lenders and professional advisors.

18.17 Association. Landlord and Tenant acknowledge that the Premises is within a business park that is governed by an owner's association. Landlord agrees that it will not take any action as a member of the owner's association that would adversely affect Tenant's use or enjoyment of the Premises.

Landlord and Tenant have executed this Lease effective as of the day and year first above written.

LANDLORD:

Wolfe Realty Investors, LLC ✓✓
Wolfe Company, LLC,
a Tennessee limited liability company

By 

Name: Wesley Wolfe

Title: Managing Member

TENANT:

Charter Communications, LLC,
a Delaware limited liability company

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

By 

Name: Kathy Carrington

Title: VP-Corporate Real Estate

EXHIBIT A

Legal Description of the Land

Lot 7, Parkway Business Center, Parkway Drive, Spring Hill, Tennessee, consisting of approximately five acres, more or less.

The exact legal description of the land shall be as set forth in the Survey.

EXHIBIT B

General Depiction of the Premises

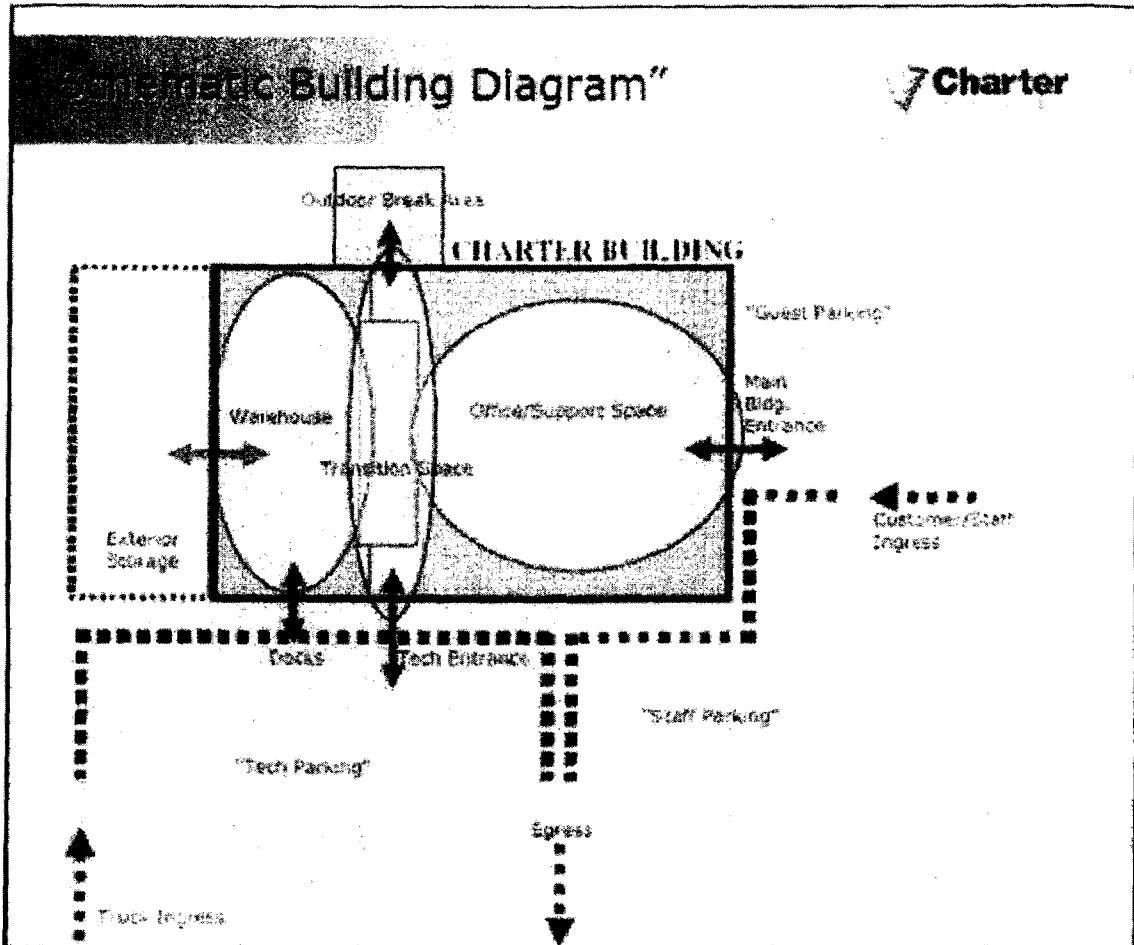


EXHIBIT C

Work Letter

This Work Letter is dated November ____, 2007, between **Wolfe Company, LLC**, a Tennessee limited liability company ("Landlord"), and **Charter Communications, LLC**, a Delaware limited liability company ("Tenant").

RECITALS

A. This Work Letter is attached to and forms a part of that certain Build to Suit Lease of even date herewith (the "Lease").

B. Landlord, at Landlord's sole cost and expense, shall construct a build to suit building upon the terms and conditions set forth herein.

C. In addition to Landlord's Work (as defined below), Tenant desires Landlord to make certain Space Improvements (as defined below) to the Premises, and Landlord is willing to make such Space Improvements, prior to Tenant's occupancy, upon the terms and conditions contained in this Work Letter.

Therefore, Landlord and Tenant hereby agree as follows:

AGREEMENTS

1. Definitions. In this Work Letter, some defined terms are used. They are:

(a) Tenant's Representative: Kim Vincent.

(b) Landlord's Representative: Wesley Wolfe.

(c) Tenant Information: Information provided by Tenant, including the nature of the Tenant's business, manner of operation, number and types of buildings, special equipment and functional requirements, and any other requirements the Tenant may have regarding the proposed purpose of its tenancy and the planned conduct of its business on the Premises. A copy of the Tenant Information is set forth on Schedule 1 attached hereto.

(d) Architectural Committee: The Parkway Business Center Architectural Review Committee appointed pursuant to the Declaration.

(e) Working Drawings: Construction documents detailing the Improvements, including, but not limited to, architectural, civil, structural, HVAC, plumbing, fire protection and

electrical, and conforming to all codes and regulations of governing bodies, complete in form and content and containing sufficient information and detail to allow for competitive bidding or negotiated pricing by contractor(s) selected and engaged by Landlord and approved by Tenant. The Working Drawings shall bear the seal of licensed architects and engineers of the State of Tennessee.

(f) Construction Schedule: A schedule depicting the relative time frames for various activities related to the construction of the Improvements on the Premises.

(g) Cost of Landlord's Work: The Cost of Landlord's Work, includes, but is not limited to, the following:

(1) The development of the Plans and Working Drawings, including supporting engineering studies (i.e., structural design or analysis, lighting or acoustical evaluations, or others as determined by Landlord's architect), as the same relate to Landlord's Work.

(2) All construction work necessary to complete Landlord's Work.

(3) All architectural and engineering fees and expenses as the same relate to Landlord's Work.

(4) All contractor and construction manager costs and fees as the same relate to Landlord's Work.

(5) All permits, licenses, fees and taxes as the same relate to Landlord's Work.

(6) All fees associated with obtaining the Architectural Committee's approval of Landlord's Work.

(h) Cost of the Space Improvements: The Cost of the Space Improvements, including, but not limited to the following, but only to the extent the same have been approved in writing by Tenant:

(1) The development of the Plans and Working Drawings as the same relate to the Space Improvements.

(2) All construction work necessary to complete the Space Improvements.

(3) All architectural and engineering fees and expenses as the same relate to the Space Improvements.

(4) All contractor and construction manager costs and fees as the same relate to the Space Improvements.

(5) All permits, licenses, fees and taxes as the same relate to the Space Improvements.

(6) All fees associated with obtaining the Architectural Committee's approval of the Space Improvements.

(i) Change Order: Any change, modification, or addition to the Plans or Working Drawings after Tenant has approved the same in writing.

(i) Landlord's Work: Collectively Items 3(a) through and including 3(ff) described below.

(j) Space Improvements: Those interior improvements to the Building (and not a part of Landlord's Work) detailed in Plans and Work Drawings approved by Tenant in writing.

(k) Improvements: Collectively Landlord's Work and the Space Improvements.

Any capitalized term used in this Work Letter, but not defined herein has the meaning set forth for such term in the Lease.

2. Representatives. Landlord appoints Landlord's Representative to act for Landlord in all matters associated with this Work Letter. Tenant appoints Tenant's Representative to act for Tenant in all matters associated with this Work Letter. All inquiries, requests, instructions, authorizations, and other communications with respect to the matters covered by this Work Letter will be made to Landlord's Representative or Tenant's Representative, as the case may be. Either party may change its designated Representative under this Work Letter at any time by providing 3 days' prior written notice to the other party.

3. Landlord's Work. Landlord agrees prior to the Commencement Date to construct and Substantially Complete for Tenant on the Premises the following improvements, which shall collectively constitute Landlord's Work:

(a) Building. The Building shall be approximately 23,000 rentable square feet. The dimensions of the Building are flexible based on site parameters; however, the overall requirement must be maintained and approved by Tenant. The footprint of the Building must contain 15,000 rentable square feet of office/auxiliary/support space, and 8,000 rentable square feet of warehouse space. A general schematic of the Building diagram is set forth on Exhibit B of the Lease.

(b) Side Walks. As detailed on Schedule 1 attached hereto.

(c) Signage. As detailed on Schedule 1 attached hereto.

- (d) Landscaping. As detailed on Schedule 1 attached hereto.
- (e) Parking Lot. As detailed on Schedule 1 attached hereto.
- (f) Asphalt Paving. As detailed on Schedule 1 attached hereto.
- (g) Curbs. As detailed on Schedule 1 attached hereto.
- (h) Clear Height. As detailed on Schedule 1 attached hereto.
- (i) Column Spacing. As detailed on Schedule 1 attached hereto.
- (j) Slab. As detailed on Schedule 1 attached hereto.
- (k) Building Envelope. As detailed on Schedule 1 attached hereto.
- (l) Roof. As detailed on Schedule 1 attached hereto.
- (m) Docks. As detailed on Schedule 1 attached hereto.
- (n) Lighting. As detailed on Schedule 1 attached hereto. All parking areas and walks areas must be provided with energy efficient artificial lighting with adequate illumination to provide for an overall minimum ambient light level at all points of the site, of one foot candle or illumination per square foot at the parking lot surface.
- (o) Switching. As detailed on Schedule 1 attached hereto.
- (p) Exterior Storage. As detailed on Schedule 1 attached hereto.
- (q) Fencing. As detailed on Schedule 1 attached hereto.
- (r) Glass/Exterior Doors. As detailed on Schedule 1 attached hereto.
- (s) Window Treatments. As detailed on Schedule 1 attached hereto.
- (t) Sprinkler/Fire Protection. As detailed on Schedule 1 attached hereto.
- (u) Mechanical/HVAC. As detailed on Schedule 1 attached hereto.
- (v) Plumbing. As detailed on Schedule 1 attached hereto.
- (w) Electrical. As detailed on Schedule 1 attached hereto.
- (x) Water Service. In accordance with approved Final Plans.
- (y) Sewer Service. In accordance with approved Final Plans.

(z) Security. As detailed on Schedule 1 attached hereto.

(aa) Communications. As detailed on Schedule 1 attached hereto.

(bb) Screening. Any screening required by the Architectural Committee pursuant to the Declaration for portions of Landlord's Work.

(cc) Compliance with Laws. All aspects of Landlord's Work shall be designed and constructed to conform with all governing codes and regulations, including, but not limited to, energy code requirements, ADA and the Declaration, including any Architectural and Construction Guidelines. The Building and site shall be free of all hazardous materials (including, but not limited to, asbestos, underground storage tanks, etc.). Hazardous materials shall be properly handled (i.e., encapsulated) as required by governing codes and regulations. Soils issues with regard to contamination and stability should be addressed and corrected to levels acceptable to local and national governing agencies when applicable, necessary tests are at Landlord expense. Landlord shall advise Tenant of any contaminants or other hazardous materials it encounters in the development of the site.

(dd) Dumpster Pad. Dumpster pad and enclosure in a location and/or a design to be mutually approved by Tenant and Landlord.

(ee) Certificate. Landlord shall, at its sole cost and expense, secure from city or local governing body a Final Certificate of Occupancy or the local equivalent ("Certificate") granted to Tenant and providing for Tenant's right to do business in that respective location. A copy of such Certificate shall be provided to Tenant's Representative within three days following receipt.

(ff) Additional Work. Any additional work provided by Landlord shall be specified in the Final Plans for the Premises, as approved by Tenant.

To the extent the foregoing is insufficient to meet applicable governing standards, the foregoing shall be modified with Tenant's consent to meet such applicable governmental standards at Landlord's sole cost and expense.

4. Space Improvements. Landlord agrees prior to the Commencement Date to construct and Substantially Complete for Tenant on the Premises the Space Improvements.

5. Project Design and Construction. All Improvements will be performed by designers and contractors selected and engaged by Landlord and approved by Tenant.

6. Cost Responsibilities.

(a) Landlord: Landlord will pay for the Cost of Landlord's Work, and any Cost of the Space Improvements in excess of the Fix Bid for the Cost of the Space Improvements (as defined in Section 7(d) below) approved by Tenant.

(b) Tenant: Tenant will pay for:

(1) Tenant-initiated changes to the Final Plans or the Working Drawings after Tenant's final approval.

(2) Tenant-initiated Change Orders, modifications, or additions to the Improvements after Tenant's approval of the Working Drawings.

(3) the Fix Bid Cost of the Space Improvements, subject, however, to the Additional Allowance provided by Landlord.

7. Schedule of Improvement Activities.

(a) Within 20 days following execution of the Lease, Tenant shall provide Landlord with programming information regarding the parameters for the Space Improvements (the "Space Improvement Information").

(b) Within 50 days following execution of the Space Improvement Information, Landlord's architect will prepare (i) proposed plans and specifications for Landlord's Work, and (ii) proposed plans and specifications for the Space Improvements (collectively the "Plans") 90-95% finalized, and forward them to Tenant for approval. Tenant will give Landlord written notice ("Tenant's Plan Notice") whether or not Tenant approves the proposed Plans within 20 days after its receipt of such proposed Plans. If Tenant's Plan Notice objects to the proposed Plans, Tenant's Plan Notice will set forth how the proposed Plans are inconsistent with the Tenant Information and/or the Space Improvement Information, and how the proposed Plans must be changed in order to overcome Tenant's objections. Landlord will resubmit revised Plans to Tenant within 15 days following receipt of Tenant's Plan Notice, 99% finalized, and such revised Plans will be treated and approved as though they were the first proposed Plans prepared pursuant to this paragraph, except that Tenant shall give Tenant's Plan Notice within 10 days after its receipt of such proposed Plans.

(c) Within 10 days after Tenant's approval of the Plans, Landlord will promptly submit the same to be approved by the Architectural Committee in accordance with the Declaration. If the Plans are approved by the Architectural Committee, then they shall become the "Final Plans." If the Plans are not approved by the Architectural Committee, then Landlord will resubmit revised Plans to Tenant in accordance with the procedures set forth in Section 7(b) above incorporating the changes recommended by the Architectural Committee. Tenant shall give written notice to Landlord of whether or not Tenant approves of such revised Plans within 10 days after receipt thereof. After Tenant's approval of the revised Plans, Landlord will promptly resubmit the revised Plans to the Architectural Committee and such revised Plans will be treated and approved as though they were the first Plans prepared. If Landlord is unable to obtain approval of the Architectural Committee to Plans acceptable to Tenant, in its sole and absolute discretion, then Tenant shall have the right to terminate the Lease upon written notice to Landlord.

(d) Within 10 days after approval of the Final Plans by Tenant and the Architectural Committee, Landlord will promptly cause to be prepared and delivered to Tenant for its prior written approval, a detailed, fixed bid for the Cost of the Space Improvements based on the Final Plans (the "Fixed Bid for the Cost of the Space Improvements"). If the Fixed Bid for the Cost of the Space Improvements is not approved by Tenant, then Tenant will so notify Landlord in writing within 10 days after receipt, and Landlord shall have that portion of the Final Plans related to the Space Improvements revised by Landlord's architect in order to assure that the Fixed Bid for the Cost of the Improvements is either no more than the Additional Allowance or does not exceed an amount by which Tenant agrees to pay. Landlord will submit any revised Plans to the Architectural Committee for approval.

(e) Within 20 days after the Final Plans are approved by Tenant and the Architectural Committee, and Tenant has approved the Fixed Bid for the Cost of the Space Improvements, Landlord shall prepare and deliver to Tenant the working drawings (the "Working Drawings") and Construction Schedule, in accordance with the Final Plans. Tenant will approve the Working Drawings pursuant to the procedures set forth in Section 7(b) above.

(f) Within 10 days following approval of the Working Drawings, Landlord will cause application to be made to the appropriate governmental authorities for necessary approvals and building permits. Within 10 days of receipt of the necessary approvals and permits, Landlord will begin construction of the Improvements (the "Construction Commencement Date").

8. Changes to Final Plans. Any changes to Final Plans by Landlord following Tenant's approval as provided above shall be approved by Tenant in writing.

9. Change Orders. Tenant may authorize changes to the Improvements, at Tenant's expense, during construction only by written instructions to Landlord's Representative. All such changes will be subject to Landlord's prior written approval, which approval shall not be unreasonably withheld, conditioned or delayed. Prior to commencing any change, Landlord will prepare and deliver to Tenant, for Tenant's approval, a Change Order setting forth the total cost of such change, which will include associated architectural, engineering, construction contractor's costs and fees, and completion schedule changes. If Tenant fails to approve such Change Order within 10 business days after delivery by Landlord, Tenant will be deemed to have withdrawn the proposed change and Landlord will not proceed to perform the change. Upon Landlord's receipt of Tenant's approval, Landlord will proceed with the change.

10. Completion and Commencement Date. Tenant's obligation for payment of Rent pursuant to the Lease will commence on the Commencement Date. Landlord and Tenant will confirm the Commencement Date in accordance with the Lease.

11. Condition of the Premises.

(a) Within 30 days after the Commencement Date, Tenant will submit a punch-list of items needing additional work by Landlord. Landlord's contractor will complete all reasonable punch-list items within 30 days after receipt of Tenant's punch-list. If Landlord fails to timely repair any punch-list items, then Tenant may make such repairs and deduct any expenses incurred from

Rent due or becoming due.

(b) A "latent defect" is a defect in the condition of the Premises caused by Landlord's failure to construct the Improvements in a good and workmanlike manner and in accordance with the Working Drawings, which defect would not ordinarily be observed during a walk-through inspection. If Tenant notifies Landlord of a latent defect, then Landlord, at its expense, will repair such latent defect as soon as practicable.

12. Holiday. In the event any date described herein for performance of the provisions hereof falls on a Saturday, Sunday or legal holiday, the time for such payment or performance shall be extended to the next business day.

SCHEDULE 1

OVERVIEW

The purpose of the document is to outline the general requirements of Charter Communications' occupancy for a joint warehouse and office facility and to establish engineering system criteria, design criteria and capacity requirements that meet Charter Communications' current and future needs in a scalable and efficient manner. The proposed occupancy scenario has Charter Communications consolidating operations into a single location and honing planning to improve efficiency, but also maintaining sufficient space for growth. It is anticipated that through effective planning and design Charter Communications can capture efficiencies that will create greater utilization and effectiveness.

Because of the nature of Charter Communications' business and operation, the facility will support direct interface with customers and could potentially be a 24 hour a day operation relying heavily on an internal staff of highly trained professional, and the continuous flow of cable and telephony products and information. Thus, the accessibility of the facility for their clients and vendors, as well as, its attractiveness and comfort for staff are critical. Outlined below are the base spatial, operational and mechanical criteria required for an effective and functional Charter Communications facility.

PROJECT INTRODUCTION

- Project Direction Charter Communications is relocating its corporate offices, warehouse and technician spaces from their current locations in Columbia, TN.
- Scope The project will encompass a build to suit project that will accommodate general office, technician areas, warehouse space, site storage, delivery access, parking requirements, computer room, workrooms and the associated support requirements of a full service communication and cable organization.
- Image The building and tenant fit-out should reflect Charter Communication's image and culture of:

"Cutting Edge Digital and Communications Company"

Purpose

The purpose of this document is to provide a model, or general baseline of Landlord's Work for the site, building shell construction, and improvements for a new Charter Communications facility. In addition to the foregoing, all other miscellaneous items required to make this a functioning building for the purposed stated herein are considered Landlord's Work, excluding the Space Improvements for the Office and Transition Space "finished space," which will be covered in the Additional Allowance. All other building, infrastructure, operating systems and site components are to be included as Landlord's Work, excluding Charter Communications' business equipment and systems.

General Requirements

Plans and Specifications: Landlord will be responsible for partnering with the appropriate design resources to prepare working drawings that reflect the needs and desires of Charter Communications. The working drawings and specifications shall be prepared in accordance with the applicable codes and regulations of all governing bodies. When applicable, working drawings shall bear the seal of licensed architects and engineers of the State of Tennessee. Drawings shall include, but are not limited to, architectural, civil, structural, HVAC, plumbing, fire protection and electrical. UGL-Equis and Charter Communications will be involved throughout the design process through participation in design meetings, review of progress sets, etc. No deviations from the final approved drawings shall be permitted without written authorization from Charter Communications with the exception of minor dimensional adjustments.

Interior Space Development: Charter Communications reserves the right to use an interior design firm of their choice for the planning, design and documentation of the interior space solution (Tenant build-out only). Landlord will be responsible for partnering and seamlessly coordinating this vendor with the core and shell vendors recommended by the development team. *If cost savings can be realized, Charter Communications will consider using Landlord's base building architect (vendor) if they can demonstrate interior design is a core competency of their practice.*

Supervision/Project Management: This project must be staffed with an experienced project manager and field superintendent. Collectively, their responsibilities will be to provide the overall coordination of design professionals, their project team members, and subcontractors to ensure the Building is designed to meet the requirements of Charter Communications and constructed as designed while maintaining the project budget and schedule.

**BUILDING
REQUIREMENTS**

General

This section has been prepared to provide a general understanding of what Charter Communications desires in their facility. Landlord must include all other miscellaneous items required to make this a functioning Building for the purposes stated herein, excluding the Space Improvements, which are covered in the Additional Allowance, and Charter Communications' business equipment and systems. Building specifications will be refined through the design process.

Value Engineering

Although the minimum operating requirements defined in this specification cannot be compromised, Charter Communications acknowledges there are cost effective recommendations that a development team may be considering in this process. To this end, Charter Communications strongly supports and will give serious consideration to value engineering alternatives brought forth by Landlord.

Building Size

The Building shall be approximately 23,000 square feet. The dimensions of the Building are flexible based on the site parameters. However, the overall requirement must be maintained. Contained within the footprint are the following spaces:

Office/Auxiliary/Support Space:	15,000 RSF
Warehouse Space:	8,000 RSF
Total Requirement:	23,000 RSF

Site

General: Landlord to provide for the site work, asphalt, exterior storage, exterior signage, and landscaping portion of this project.

Side Walks: Landlord to provide side walks to the following building entrances from the adjacent parking lots:

- Main Office Entrance
- Main Warehouse Entrance
- Technician Entrance

Signs: Landlord to provide the following signs on site:

- One (1) illuminated "Monument Sign" for site.
- Two (2) directional signs for truck traffic and guest parking.
- Two (2) prominent spots on the building, powered for lighted building sign.

Landscaping: Landlord to provide seeding, trees and shrubbery to meet local building codes, development requirements, and to complete the look of the facility.

Parking Lot

Parking: Landlord to provide parking spaces as itemized below:

- **Forty-three (43)** technician parking spaces. Each space should be 12'-0" wide x standard depth to accommodate loading/unloading of materials from trucks.
- **Sixty (60)** staff parking spaces. Standard dimension.
- **Ten (10)** visitor parking spaces. Standard dimension.
- **Eleven (11)** spaces for "bucket trucks". Each Space to be 13'-0" wide x increased depth to accommodate truck dimensions.

ADA: Landlord to provide the required (by code) ADA spaces for both Employee and Visitor parking.

Striping: Landlord to provide striping in parking lot to meet requirements indicated above.

Curbs: Landlord to provide concrete curbs separating parking lot from landscaping, green areas, walkways, and road access.

Asphalt Paving

Parking Lots: Landlord to provide 4" asphalt mix over minimum of 6" stone base.

Dock Areas: Landlord to provide 4" asphalt mix over minimum of 6" stone base.*

Outside Storage: Landlord to provide 4" asphalt mix over minimum of 6" stone base.

**Install concrete prior to the asphalt; however, Landlord shall warrant the asphalt paving for a period of one year from the Commencement Date. Such warranty to include, without limitation, compaction of asphalt where it meets the curb and ensuring that depressions do not form at joints with concrete aprons. Particular emphasis on truck docks and joints near delivery doors.*

Clear Height

Warehouse Space: Building to maintain a 25'- 0" minimum dimension from finished slab to underside of roof, providing a clear and unobstructed free space of 19'- 0". Charter Communications will be utilizing a 3 position high racking system that has a maximum height of 14'- 6" (with product).

Office Space: Building to maintain a 9'- 0" finished ceiling height.

Column Spacing

30' x 40' spacing. The 40' dimension allows maximum utilization of racking system in the warehouse, if interior columns are required

Slab

Office Space: Landlord to provide 6" reinforced concrete slab, 4000 psi. All concrete to be sealed.*

Warehouse: Landlord to provide to provide 6" reinforced concrete slab, 4000 psi. All concrete to be sealed.*

** Slabs to be cured using Sonneborn Kure-n-Seal (or equal).*

Equipment pads – Landlord to provide a concrete pad for all outdoor heat pump, air conditioning or generator equipment.

Outdoor Break Area: Landlord to provide 2 -15' x 10' stamped concrete area for employee break space. One designated for smoking and one designated for non-smoking.

Building Envelope

Exterior Materials:

- Three (3) building elevations to be metal construction from a standard metal building manufacturer with brick veneer, with the end wall (at warehouse) being designed for future expansion capability.
- One (1) elevation to have 50' wide x 22' (approximate dimension) high split faced CMU block wall (main entry). All CMU and mortar is to be water proof with an additional water barrier to insure dry condition. The remaining portion of this elevation will be all metal construction from a standard metal building manufacturer.

If cost savings can be realized thru more economical construction methods and applications, Charter Communications will consider alternate solutions for the Building and its exterior. However, please note that any alternate is subject to review and approval by Charter Communications.

Roof

Landlord to provide standing seam metal roof pitched in two directions (towards long side of Building) to allow for future expansion of the Building. Insure roof meets all applicable building codes for live and dead load capacities.

Utilize open steel trusses for roofs structure. Insure an enhanced reinforced area runs down the center of the Building for the placement of mechanical air handling units on the deck.

Docks

Recessed Truck Dock: Landlord to provide one (1) recessed truck dock equipped with a 9'-0" wide x 10'-0" high manually operated overhead door, 30,000 lb capacity leveler, exterior dock seal, metal canopy, and dock light. Landlord to provide concrete bollards on inside and adjacent to door framing to prevent damage from fork lifts.

Lighting

Warehouse: Landlord to provide 400 Watt "Metal Halide" light fixtures with acrylic refractors spaced as required to maintain 40 foot-candles of lighting at 48" above finished floor (AFF).

Office Space: Landlord to construct the interior office space, at Tenant's expense subject to the Additional Allowance, in accordance with space plans approved by Tenant.

Site: Landlord to provide wall pack lighting mounted to perimeter of Building. Space 40'-0" OC. Emergency lighting shall be as required by code.

Fenced in Area: Landlord to provide additional wall pack lighting to illuminate fenced in area. Space 20' OC.

Parking Lot: Landlord to provide pole-mounted lighting to meet minimum code requirements.

Switching

Warehouse: Landlord to provide area contact switches for minimal switch banks in the warehouse space.

Office: Lighting controls shall be individually controlled and switched to the area or room of use. Cost to be a part of Additional Allowance.

Site: Landlord to provide photoelectric cells for wall-pack lighting.

Exterior Storage

General: Landlord to provide 5000 sf of exterior site storage directly adjacent to the warehouse space.

Paving: Landlord to provide asphalt paving as described in asphalt paving section of this specification. Provide asphalt road from lot to site storage access.

Fencing: Landlord to provide 8'-0" high metal chain link fencing around storage. Include vinyl slat inserts to provide visual privacy.

Gate: Landlord to provide two (2) 3'-0" wide rolling gates for access.

Fencing

Exterior Storage: As described above.

Warehouse: Landlord to provide a fenced area large enough to park 20 vehicles with an 8'-0" high metal chain link fencing wrapping perimeter. Include vinyl slat inserts for visual privacy.

Gate: Landlord to provide One (1) 9'0" wide roll gate.

Glass/Exterior Doors

Office: Landlord to provide three hundred twenty (320) square feet (80' wide x 4' high aluminum) storefront type insulated glass window system at front elevation. Provide a pair of 3' x 7' aluminum and glass doors with 18" sidelites at the following locations:

- Main Entrance
- Tech Entrance (include an automatic door opener for this location)

Office: Landlord to provide forty (40) - 4' wide x 4' high aluminum and insulated glass punched windows for the remaining office area. If building type or size does not allow for this quantity please detail an alternate.

Warehouse: Landlord to provide a (one) man egress door adjacent to each dock delivery door in the warehouse.

Outdoor Break Area: Provide a 3'-0" x 7'-0" aluminum and glass door to the exterior.

In addition to the doors that have been listed throughout this specification, Landlord to provide the quantity of doors required by code to satisfy code relative to egress.

Window Treatments

Office: Landlord to provide natural aluminum mini blinds for all windows.

**CRITERIA AND
INFRA-
STRUCTURE
OPERATING
REQUIREMENTS**

The following sections outline the mechanical, electrical, life safety, plumbing and other systems criteria and infrastructure/load requirements that are to be used in establishing and providing the base building operating systems for the core and shell.

Costs associated with the finished build-out of the Office and Transition spaces only are to be considered a part of the Additional Allowance. This would include costs associated with the final termination and final distribution of mechanical, electrical, life safety, plumbing, fire-protection systems in addition to walls, doors, ceilings, and finishes to complete a fully functioning office. All other building components are considered to be base building and part of Landlord's Work.

The criteria and items below are minimums unless dictated otherwise by local or state building codes.

Sprinkler/Fire
Protection

Base Building: The Building shall be equipped with a fully operational sprinkler system. Base Building shall be defined as provision of incoming mains, controls, valves, pumps, loop mains and branch distribution.

The building shall be equipped with a fully operational Horn / visual Strobe, ADA compliance, annunciation system. Base Building shall be defined as provision of a backbone system, incoming mains, controls, panels to and from the common areas.

Landlord to provide Fire Valves / Hoses/ Extinguisher cabinets as required by code.

Warehouse: Landlord to provide bronze upturned head every 225 sf or to meet local building code.

Office Space: Landlord to provide bronze, semi recessed heads, centered on tenants finished acoustical tile ceiling per code requirements. Final terminations only to be included in Additional Allowance.

Mechanical/HVAC

Warehouse "Heating": Landlord to provide gas fired air rotation unit heaters to maintain 60 degrees inside when outside temperature is at -2 degrees.

Warehouse "Ventilation": Landlord to provide side wall mounted exhaust fans to allow for air circulation. Landlord to provide perimeter intake vents as required for effective air circulation.

Office Space: HVAC System shall be re-circulating system to serve the office areas with minimum 25 % outdoor air capability for the office area. Must meet the following design criteria.

System Design Criteria:

- System shall maintain the following space temperature conditions during the cooling season: Office and General workspaces = 74°F/ 50% RH
- System shall maintain the following space temperature conditions during the heating season: Office and general workspaces = 70°F/ 30% RH
- System shall have the ability to maintain the following air change rates per hour (ACPH) to specific spaces: Office/Transition Space - 2 ACPH
- System shall have the ability to maintain the above space conditions with the following peak cooling loads (lighting and equipment) in specific spaces. Envelope loads shall be in addition to these internal loads.
 - Office - 5 watts per sq. ft.
 - Transition Space – 10 watts per sq. ft.
- Supply air systems shall have following filtration levels: Office and general work areas - 30% / 85% ASHRAE filters

The following level of environmental zone criteria shall be maintained:

- Office Space – Open areas of approximately 1,250 sq. ft. shall be controlled for temperature. All spaces with full height walls shall be controlled for temperature. Exterior zoning shall be as required based on shell design.

LAN Room – Landlord to provide separate ceiling air conditioning unit to maintain recommended operating temperatures for computer server equipment. Specific type or quantity of equipment in this room to be determined by Charter Communications.

Plumbing

Warehouse/Office Space: Landlord to provide Men and Women restroom facilities that meet ADA code and local building requirement. Provide one (1) mop-sink.

All water closets and urinals are to be flush valve type fixtures. Restrooms to adhere to ADA codes and standards and are to have necessary dispensers, waste receptacles, paper towel holders and appropriate accessories for fully functioning washrooms.

Landlord to provide the required fixture count in accordance with applicable codes based on occupancy of 100 people total. Charter Communications may require additional fixtures in the Men's room due to the large amount of male techs reporting to this location at the start and close of the work day. In addition to the code required fixture count, please add one (1) additional stall and two (2) additional urinals.

Electrical

Service: Landlord to provide electrical service to meet and exceed for growth purposes based on the following criteria.

- Power shall be provided at 120/208/277/480 volt, 3-phase, 4-wire, grounded to a building ground system.
- Landlord to provide electrical service size (typically 800 amp service) to meet Charter Communications' need, subject to Charter Communications' confirmation.

Panels/Transformers: Landlord to provide a recommended quantity and size of panels (both 480/277 and 120/208) and transformers, subject to Charter Communications' confirmation.

Warehouse: Landlord to provide the following general power in warehouse:

- Standard 110V convenience duplex receptacles throughout the area per code.
- Four (4) isolated/dedicated special outlets for battery chargers in the warehouse. They should include the necessary feeder panel, and disconnect switch to support this function.

* All additional power associated with the office shall be a part of the Additional Allowance.

Emergency power: Landlord to provide a generator for critical telephony and IT systems. This includes the Central Server or LAN room area, the Dispatch area and is inclusive of lighting, HVAC and all general power connections to these spaces. Specific requirements are to be determined.

**MISCELLANEOUS
INFRASTRUC.
REQUIREMENTS**

Security

Security and Access card reader system shall be provided and include all necessary equipment to operate and monitor the system. Landlord to provide proximity card key readers at:

- Technician entrance (1)
- Main entrance (1)
- Converter Room – Transition space (1)
- Warehouse (1)

Communication

Communication and data transfer cabling systems shall be by Charter Communications, however, as part of design and construction it shall be understood that each office, work space or other occupied area shall be equipped with a reasonable quantity of connection points consisting of a three (3) port / wire Cat 5e wiring infrastructure. All wiring will be designed to meet length and termination requirements of the manufacturer and shall terminate in appropriately planned and designed closets or server rooms.

Included in the Additional Allowance is the cost to cover cabling install, terminations and testing.

Tenant shall be provided with a minimum 250 pair phone line connection to the basic area provider. Lines shall terminate in tenant space in a closet or room to be determined.

**INTERIOR
CONSTRUCTION**

General

Landlord to provide the Additional Allowance to complete the interior construction of the Office/Support/Transition Spaces. This Additional Allowance is outside of all "base building" specifications defined above.

WARRANTY

In addition to any general manufacturing warranties for materials used in connection with Landlord's Work, Landlord shall cause the applicable contractors or manufacturers to provide the following warranties on Landlord's Work (collectively the "Warranty Items"). The Warranty Items must be assignable to Tenant.

Roof: 10 years

Asphalt Paving/Parking Lot: 1 year

Mechanical/HVAC: 1 year from date of installation, 5 years on compressor from date of installation

EXHIBIT C

May 6, 2009 Wolfe Proof of Claim

UNITED STATES BANKRUPTCY COURT Southern District of New York PROOF OF CLAIM

Name of Debtor: Charter Communications, Inc. Case Number: 09-11435 (JMP)

NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.

Name of Creditor (the person or other entity to whom the debtor owes money or property): Wolfe Realty Investors, L.L.C. Name and address where notices should be sent: Matthew R.K. Waterman, Waterman, P.C. 425 Park Ave., 27th Fl., New York NY 10022 Telephone number: (646) 233-2080

Check this box to indicate that this claim amends a previously filed claim. Court Claim Number: (if known) Filed on:

Name and address where payment should be sent (if different from above): Telephone number:

Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars. Check this box if you are the debtor or trustee in this case.

1. Amount of Claim as of Date Case Filed: \$ 2,202,868.08 If all or part of your claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4. If all or part of your claim is entitled to priority, complete item 5. Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges.

5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount. Specify the priority of the claim.

2. Basis for Claim: contract & lease relection (See instruction #2 on reverse side.)

3. Last four digits of any number by which creditor identifies debtor: 3a. Debtor may have scheduled account as:

Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B). Wages, salaries, or commissions (up to \$10,950*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. §507(a)(4).

4. Secured Claim (See instruction #4 on reverse side.) Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information. Nature of property or right of setoff: Real Estate Motor Vehicle Other Describe: Value of Property: \$ Annual Interest Rate % Amount of arrearage and other charges as of time case filed included in secured claim, if any: \$ Basis for perfection: Amount of Secured Claim: \$ Amount Unsecured: \$

Contributions to an employee benefit plan - 11 U.S.C. §507(a)(5). Up to \$2,425* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. §507(a)(7). Taxes or penalties owed to governmental units - 11 U.S.C. §507(a)(8).

6. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim. 7. Documents: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary. (See instruction 7 and definition of "redacted" on reverse side.) DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING. If the documents are not available, please explain:

Other - Specify applicable paragraph of 11 U.S.C. §507(a)(). Amount entitled to priority: \$ *Amounts are subject to adjustment on 4/1/10 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.

Date: 5/16/09 Signature: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any. Wolfe Realty Investors, LLC Chief Member/MANAGER

FOR COURT USE ONLY

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.



INSTRUCTIONS FOR PROOF OF CLAIM FORM

The instructions and definitions below are general explanations of the law. In certain circumstances, such as bankruptcy cases not filed voluntarily by the debtor, there may be exceptions to these general rules.

Items to be completed in Proof of Claim form

Court, Name of Debtor, and Case Number:

Fill in the federal judicial district where the bankruptcy case was filed (for example, Central District of California), the bankruptcy debtor's name, and the bankruptcy case number. If the creditor received a notice of the case from the bankruptcy court, all of this information is located at the top of the notice.

Creditor's Name and Address:

Fill in the name of the person or entity asserting a claim and the name and address of the person who should receive notices issued during the bankruptcy case. A separate space is provided for the payment address if it differs from the notice address. The creditor has a continuing obligation to keep the court informed of its current address. See Federal Rule of Bankruptcy Procedure (FRBP) 2002(g).

1. Amount of Claim as of Date Case Filed:

State the total amount owed to the creditor on the date of the Bankruptcy filing. Follow the instructions concerning whether to complete items 4 and 5. Check the box if interest or other charges are included in the claim.

2. Basis for Claim:

State the type of debt or how it was incurred. Examples include goods sold, money loaned, services performed, personal injury/wrongful death, car loan, mortgage note, and credit card. If the claim is based on the delivery of health care goods or services, limit the disclosure of the goods or services so as to avoid embarrassment or the disclosure of confidential health care information. You may be required to provide additional disclosure if the trustee or another party in interest files an objection to your claim.

3. Last Four Digits of Any Number by Which Creditor Identifies Debtor:

State only the last four digits of the debtor's account or other number used by the creditor to identify the debtor.

3a. Debtor May Have Scheduled Account As:

Use this space to report a change in the creditor's name, a transferred claim, or any other information that clarifies a difference between this proof of claim and the claim as scheduled by the debtor.

4. Secured Claim:

Check the appropriate box and provide the requested information if the claim is fully or partially secured. Skip this section if the claim is entirely unsecured. (See DEFINITIONS, below.) State the type and the value of property that secures the claim, attach copies of lien documentation, and state annual interest rate and the amount past due on the claim as of the date of the bankruptcy filing.

5. Amount of Claim Entitled to Priority Under 11 U.S.C. §507(a).

If any portion of your claim falls in one or more of the listed categories, check the appropriate box(es) and state the amount entitled to priority. (See DEFINITIONS, below.) A claim may be partly priority and partly non-priority. For example, in some of the categories, the law limits the amount entitled to priority.

6. Credits:

An authorized signature on this proof of claim serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

7. Documents:

Attach to this proof of claim form redacted copies documenting the existence of the debt and of any lien securing the debt. You may also attach a summary. You must also attach copies of documents that evidence perfection of any security interest. You may also attach a summary. FRBP 3001(c) and (d). If the claim is based on the delivery of health care goods or services, see instruction 2. Do not send original documents, as attachments may be destroyed after scanning.

Date and Signature:

The person filing this proof of claim must sign and date it. FRBP 9011. If the claim is filed electronically, FRBP 5005(a)(2), authorizes courts to establish local rules specifying what constitutes a signature. Print the name and title, if any, of the creditor or other person authorized to file this claim. State the filer's address and telephone number if it differs from the address given on the top of the form for purposes of receiving notices. Attach a complete copy of any power of attorney. Criminal penalties apply for making a false statement on a proof of claim.

DEFINITIONS

Debtor

A debtor is the person, corporation, or other entity that has filed a bankruptcy case.

Creditor

A creditor is a person, corporation, or other entity owed a debt by the debtor that arose on or before the date of the bankruptcy filing. See 11 U.S.C. §101 (10)

Claim

A claim is the creditor's right to receive payment on a debt owed by the debtor that arose on the date of the bankruptcy filing. See 11 U.S.C. §101 (5). A claim may be secured or unsecured.

Proof of Claim

A proof of claim is a form used by the creditor to indicate the amount of the debt owed by the debtor on the date of the bankruptcy filing. The creditor must file the form with the clerk of the same bankruptcy court in which the bankruptcy case was filed.

Secured Claim Under 11 U.S.C. §506(a)

A secured claim is one backed by a lien on property of the debtor. The claim is secured so long as the creditor has the right to be paid from the property prior to other creditors. The amount of the secured claim cannot exceed the value of the property. Any amount owed to the creditor in excess of the value of the property is an unsecured claim. Examples of liens on property include a mortgage on real estate or a security interest in a car.

A lien may be voluntarily granted by a debtor or may be obtained through a court proceeding. In some states, a court judgment is a lien. A claim also may be secured if the creditor owes the debtor money (has a right to setoff).

Unsecured Claim

An unsecured claim is one that does not meet the requirements of a secured claim. A claim may be partly unsecured if the amount of the claim exceeds the value of the property on which the creditor has a lien.

Claim Entitled to Priority Under 11 U.S.C. §507(a)

Priority claims are certain categories of unsecured claims that are paid from the available money or property in a bankruptcy case before other unsecured claims.

Redacted

A document has been redacted when the person filing it has masked, edited out, or otherwise deleted, certain information. A creditor should redact and use only the last four digits of any social-security, individual's tax-identification, or financial-account number, all but the initials of a minor's name and only the year of any person's date of birth.

Evidence of Perfection

Evidence of perfection may include a mortgage, lien, certificate of title, financing statement, or other document showing that the lien has been filed or recorded.

INFORMATION

Acknowledgment of Filing of Claims

To receive acknowledgment of your filing, please enclose a stamped self-addressed envelope and a copy of this proof of claim. You may view a list of filed claims in this case by visiting the Claims and Noticing Agent's website at <http://www.kcclic.net>

Offers to Purchase a Claim

Certain entities are in the business of purchasing claims for an amount less than the face value of the claims. One or more of these entities may contact the creditor and offer to purchase the claim. Some of the written communications from these entities may easily be confused with official court documentation or communications from the debtor. These entities do not represent the bankruptcy court or the debtor. The creditor has no obligation to sell its claim. However, if the creditor decides to sell its claim, any transfer of such claim is subject to FRBP 3001(e), any applicable provisions of the Bankruptcy Code (11 U.S.C. §101 et seq.), and any applicable orders of the bankruptcy court.

EXHIBIT "A"

SPRING HILL LEASE

(First Page Only – Full Lease is Attached as Exhibit "F" to the Debtors' Motion For Entry Of An Order (I) Authorizing And Approving Expedited Procedures For The Rejection Of Executory Contracts And Unexpired Leases Of Personal And Non-Residential Real Property And (II) Authorizing The Debtors To Reject Certain Unexpired Leases Of Non-Residential Real Property)

BUILD TO SUIT LEASE

This Build to Suit Lease (this "Lease") is entered into by Landlord and Tenant (as defined in Section 1 below) as of the 16th day of ~~November~~, 2007. Landlord and Tenant agree:
December

ARTICLE 1--BASIC LEASE INFORMATION

1.1 **Basic Lease Information.** In addition to the terms that are defined elsewhere in this Lease, these terms are used in this Lease:

- (a) **LANDLORD:** Wolfe Realty Investors, LLC
~~Wolfe Company, LLC~~, a Tennessee corporation.
- (b) **LANDLORD'S ADDRESS:** Wolfe Company, LLC
3021 Highway 45 By Pass
Suite 101
Jackson, TN 38305
Attn: Wesley Wolfe
- (c) **TENANT:** Charter Communications, LLC, a Delaware limited liability company.
- (d) **TENANT'S ADDRESS:** Charter Entity
c/o UGL Equis
6399 S. Fiddlers Green Circle
Suite 600
Greenwood Village, Colorado 80111
Attn: Charter Lease Administration
- With a copy to:
- Charter Communications
6399 S. Fiddlers Green Circle
Suite 600
Greenwood Village, Colorado 80111
Attn: Kathy Carrington, VP-Corporate Real Estate
- (e) **LAND:** The real property located in the Parkway Business Center, Parkway Drive, Spring Hill, Tennessee, as more particularly described on Exhibit A, as the same will be modified by the Survey (as defined in Section 15.2 below).
- (f) **PREMISES:** The Premises shown on Exhibit B to this Lease, which will consist of the Land, the Building, parking and loading areas and all other improvements, to be dimensioned and approximately located on the Land, in an area approved by Tenant.

EXHIBIT "B"

Breakdown of Proof of Claim Amount

**Attachment to
Wolfe Realty Investors, L.L.C. Proof of Claim**

In re Charter Communications, Inc., et al.
Case No. 09-11435 (JMP)

Total Amount of Claim					2,202,868.06
Breach of Contract:					
	Initial land purchase			\$738,655.46	
	Land Cost Above Purchase Price	Settlement Fees	\$5,416.99		
		Appraisal	\$6,824.00		
		Interest Expense Through 3/27/09	\$41,359.61		
		Insurance	\$7,842.00		
		Property Franchise/Excise	\$100.00		
		Parkway Condo Fees	\$820.00		
		Property Taxes (through 2008)	\$4,028.56		
		land subtotal:		\$66,391.16	
	Professionals Costs	Commissions	\$71,883.44		
		Geo-Tech Studies	\$6,750.00		
		Legal Fees	\$8,962.38		
		Architect/Engineers	\$112,170.33		
		Plans	\$872.49		
		professionals subtotal:		\$200,638.64	
	City/County Fees	Permits/Plans Reviews	\$12,615.00		
		Impact Fees	\$45,008.50		
		Business License	\$320.00		
		fees subtotal:		\$57,943.50	
	Pre-Engineering Metal Cost			\$236,335.00	
	Administrative (Lease/Construction)			\$41,942.84	
	Construction Costs			\$155,849.00	
	Property/Land Stabilization			\$8,450.00	
	Landlord Fees			\$135,558.51	
	total Breach of Contract Claim:				1,641,764.11

**Attachment to
Wolfe Realty Investors, L.L.C. Proof of Claim**

In re Charter Communications, Inc., et al.
Case No. 09-11435 (JMP)

Lease Rejection:					
	Base Rent = \$12.26/sf x 23,585 sf				
		annual rent	\$289,152.10		
		10 year term remaining	\$2,891,521.00		
		15% of remaining term		\$433,728.15	
	"Cost of Space Improvements"	agreed amount [note 1]	\$849,172.00		
		15% of remaining term		\$127,375.80	
	total Lease Rejection Claim:				\$561,103.95

note 1 -- Per lease terms, to be paid by tenant over the full 10 year term of the lease, with interest at an annual rate of 9%

EXHIBIT D

March 2, 2010 Letter

WATERMAN, P.C.
ATTORNEYS AT LAW

425 Park Avenue, 27th Floor
New York, NY 10022
646-593-7800

4729 East Sunrise Drive, #304
Tucson, AZ 85718-4534
520-382-5000

Matthew R.K. Waterman
mrkw@watermanlaw.com

March 2, 2010

Cindy Chen
Kirkland & Ellis, LLP
601 Lexington Avenue
New York NY 10022

Re: In re Charter Communications, Inc., *et al.* ("Charter")
Chapter 11 Case No. 09-11435 (smp)

Dear Cindy:

You have asked me to explain the breakdown of the Proof of Claim (the "Wolfe POC") filed on behalf of Wolfe Realty Investors, LLC ("Wolfe") in the above-referenced consolidated chapter 11 cases. Additionally, you have asked that I look at *Jonas v. Walgreen Arizona Drug Co. (In re Wonderfair Stores, Inc. of Arizona)*, 511 F.2d 1206 (9th Cir. 1975), and convey my reaction to you.

Consistent with the position I have expressed to you during our telephone conferences, and as you can see from the Wolfe POC, Wolfe's view is that the agreement into which it entered with Charter is comprised of two elements – first, a contract under which Wolfe agreed to acquire property and build certain specified improvements thereupon, in return for which Charter agreed to enter into a lease with Wolfe for use of the improved property; and, second, the lease itself pursuant to which Wolfe agreed to lease the improved property to Charter, in return for which Charter agreed to pay certain specified amounts as rent.

Attached as Exhibit "B" to the Wolfe POC was a spreadsheet ("POCB") setting forth the individual cost components that, when aggregated, comprise the \$2,202,868.06

claimed. I have attached a copy to this letter for your convenience. As you can see, there are two categories that make up the Wolfe POC – the portion based on damages for the breach of contract, and the portion based on damages for the rejection of the lease.

The first category, relating to breach of contract damages, totals \$1,641,764.11. This amount represents the actual costs incurred by Wolfe in its efforts to perform under the contract portion of the so-called "Build to Suit Lease." As you can tell from POCB, the largest single component of damages arises out of the land purchase -- \$738,655.46. The additional amounts are fairly clearly set forth: additional land-related costs beyond the purchase price (\$66,391.16), professional costs (\$200,638.64), city/county fees (\$57,943.50), pre-engineering metal cost (\$236,335.00), administrative (lease/construction) (\$41,942.84), construction costs (\$155,849.00), property/land stabilization (\$8,450.00), and what were denominated as "landlord fees" (\$135,558.51).

The second category, relating to lease rejection damages, totals \$561,103.95. This amount represents Wolfe's calculation of the damages suffered solely as a result of Charter's rejection of the lease component, reduced in accordance with the limitations on lease rejection claims set forth in §502(b)(6) of the Bankruptcy Code, 11 U.S.C. §502(b)(6). As I understand our clients' respective positions, (Wolfe's and Charter's) there does not appear to be any disagreement that Wolfe is entitled to lease rejection damages calculated in accordance with §502(b)(6). I'm a little unclear on why the number you have previously mentioned to me as Charter's calculation of the lease rejection damages is so much less than this amount, but let me explain how the \$561,103.95 was calculated.

The agreement called for a building of 23,585 square feet, at an annual rent of \$12.26 per square foot. This results in a base annual rent of \$289,152.10. The agreement called for a 10 year lease term, or a total base rent of \$2,891,521.00 for the 10 years. Pursuant to §502(b)(6)(A), this portion of Wolfe's claim is limited to 15% of the remaining term of the lease – 10 years, given that the 10 year term never actually commenced. Fifteen percent of \$2,891,521.00 is \$433,728.15 -- the very least amount to which Wolfe could be entitled.

Additionally, pursuant to Section 6 of Exhibit "C" to the Spring Hill agreement, Charter was responsible for payment of certain "Cost of Space Improvement" amounts. Such amounts were to be amortized over the 10 year lease term at an annual interest rate of 9%. By agreement of the parties, these amounts totaled, as of the date of filing of the Wolfe POC, \$849,172.00. Again, pursuant to §502(b)(6)(A), this amount is capped at 15%, resulting in an additional claim amount of \$127,375.80. When added to the \$433,728.15 discussed above, it results in a total claim for lease rejection damages of \$561,103.95.

As a result, even if we were to agree that the agreement between Wolfe and Charter was solely a lease, and that damages thereunder for Charter's rejection are limited by §502(b)(6), Wolfe's claim should clearly be allowed in an amount no less than \$561,103.95. Of course, none of this includes the costs incurred by my client subsequent to Charter's filing, for property taxes, on-going maintenance, insurances, attorney fees, etc.

As to the second purpose for this letter, I have reviewed the Wonderfair case, and extensively sought additional, relevant case law. As I am sure you have also found, there really is nothing out there dealing with the issues that have arisen in this case. In my estimation, the Wonderfair case is not particularly applicable to the relevant issues either.

Putting aside the obvious irony of a 9th Circuit decision in which the court finds that a California district court interprets Arizona law better than an Arizona district court, the Wonderfair case decided strikingly different issues under substantially different laws. Although there are certainly circumstances under which a case decided under the Bankruptcy Act of 1898 might be relevant to a case arising under the Bankruptcy Code, Wonderfair is not one of them. As I am sure you are aware, Wonderfair dealt with a case under Chapter X of the Act, in which the Bankruptcy Referee was asked to determine the validity of a lease. Our case, in contrast, merely deals with the effect of a rejection of the agreement between the parties. As you know, the right to reject executory contracts and unexpired leases did not exist under the Act.

In Wonderfair, there were two competing, fully realized transactions – the debtor/landlord leased the property to one party, and the bankruptcy trustee subsequently sold the property to another party. The California district court found that the lease was superior to the sale. The Arizona district court, contrastingly, found that the sale was superior to the lease. The 9th Circuit was asked to determine which of the district courts was correct. As is clear from the decision, the 9th Circuit found that, under Arizona real property law and the Bankruptcy Act, the lease was superior.


Although an interesting decision, I believe that it is not particularly of interest to the instant issues. As stated above, the relevant provisions of the Bankruptcy Act are decidedly different from the relevant provisions of the Bankruptcy Code. Although we could argue if that fact alone is sufficient to remove Wonderfair from any consideration in the instant proceedings, there are far more important reasons to distinguish Wonderfair and conclude that it fails to be informative as to any of the matters currently at play.

The 9th Circuit had before it an either/or problem. Either the debtor's lease of the property to the tenant was superior, or the trustee's sale of the property to the buyer was superior. The Court never considered any possibility that there could be a resolution that found both transactions to be either valid and enforceable or invalid and unenforceable, nor is it clear that such a resolution could have been workable.

The case presently before us, however, is a horse of a different color. In this case, the court could certainly find that there is both an executory contract and an unexpired lease. Unlike in Wonderfair, there are not two parties – one claiming that the lease was enforceable, and the other, a trustee, arguing that it was not enforceable and that, therefore, his subsequent sale of the property to a third party was enforceable – with mutually exclusive demands. In Wonderfair, there were two parties, each asserting an immediate right to possession and use of the property. Now, we have a vastly different scenario, in which no one is contesting validity, possession or use of the property, or any of the matters that were before the 9th Circuit or either of the Wonderfair district courts.

I believe that if the question now before us was whether the existing agreement between our respective clients – whatever it is – was an enforceable agreement that precludes my client (or a trustee in its hypothetical bankruptcy) from selling the property to some third party without incurring damages to your client, I would likely agree that it does. But those are not the facts and that is not the question. I think we all agree that the agreement is valid and your client's rejection of it (whether it is a lease, an executory contract, or both) results in damages owed to my client. What we are arguing about is the extent of those damages, and whether the statutory cap of §502(b)(6) is applicable and controlling as to the entire agreement. I do not believe that Wonderfair provides any light on those issues.

Sincerely,



Matthew R.K. Waterman

MRKW:hhs

cc: Wesley Wolfe
Don McCartney
Vincent K. Seiler

EXHIBIT E

**Aug. 28, 2008 Final Approval of Final Plans,
Fixed Bid of Cost of Space Improvements, and Working Drawings**

**FINAL APPROVAL OF FINAL PLANS, FIXED BID OF COST OF SPACE
IMPROVEMENTS, AND WORKING DRAWINGS**

Come now Charter Communications, LLC, as "Tenant," and Wolfe Realty Investors, LLC, as "Landlord," pursuant to the Build to Lease between the parties dated December 6, 2007 (the "Lease"), and Tenant hereby gives its final approval and Landlord accepts said approval of the Final Plans, Fixed Bid of Cost of Space Improvements, and Working Drawings, as provided in section 7(c) of the Work Letter attached as Exhibit C to the Lease. All terms not otherwise defined herein are used as defined in the Lease.

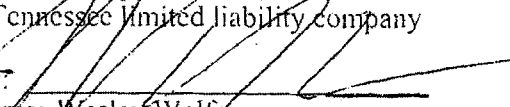
The Final Plans and Working Drawings hereby approved are listed in **Exhibit A** attached hereto, subject to the clarifications and qualifications set forth in **Exhibit B** attached hereto. The Fixed Bid of Cost of Space Improvements is \$801,981.00, which shall be credited against and repaid as an Additional Allowance in accordance with section 3.5 of the Lease. The Fixed Bid of Cost of Space Improvements is subject to adjustment for any change orders requested by Tenant, including the change orders currently pending as set forth in the clarifications and qualifications in **Exhibit B**, and to change for any additional professional fees, fixtures, furniture, cabling, signage and/or moving expenses for which Tenant chooses to use the Additional Allowance, in accordance with section 3.5 of the Lease. Even though the Final Plans require clarifications and qualifications as set forth in Exhibit B attached hereto, the parties acknowledge that Tenant will permit Landlord to move forward with submission of the same for governmental approvals and building permits without a revised Final Plan; however, nothing herein shall release Landlord from its obligation to obtain field approval of the clarifications and qualifications set forth in Exhibit B attached hereto. Landlord will, at Landlord's sole cost and expense, provide Tenant with final as-built drawings of all improvements once construction is complete. Tenant is willing to permit the foregoing early submission of the Final Plans because the parties reasonably believe that the clarification and qualifications as set forth in Exhibit B attached hereto will result in minor increases to the Fixed Bid Cost of the Space Improvement

In accordance with section 7(f) of the Work Letter attached as Exhibit C to the Lease, within ten (10) days of the execution of this approval, Landlord will cause application to be made to the appropriate governmental authorities for necessary approvals and building permits; and within ten (10) days of receipt of the necessary approvals and permits, Landlord will begin construction of the Improvements. Upon determination of the construction completion date, Landlord shall finalize and deliver a constructions schedule for Tenant's review and approval.

Landlord and Tenant have executed this approval agreement effective as of the 28th day of August, 2008.

LANDLORD:

Wolfe Realty Investors, LLC,
a Tennessee limited liability company

By: 
Name: Wesley Wolfe
Title: Managing Member

TENANT:

Charter Communications, LLC,
a Delaware limited liability company

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

By: 
Name: Kathy Carrington
Title: VP-Corporate Real Estate

EXHIBIT F

Oct. 16, 2008 Change Order Number One

October 16, 2008

RE: Change Order Number One (1)
Build to Suit Lease Agreement
Tenant: Charter Communications, LLC
Landlord: Wolfe Realty Investors, LLC

Come now the Charter Communications, LLC, as "Tenant," and Wolfe Realty Investors, LLC, as "Landlord," under that certain Build to Suit Lease dated December 6, 2007 (the "Lease"), and hereby agree on this Change Order to the Fixed Bid of Cost of Space Improvements, as defined in the Lease. The changes agreed to in this Change Order, as listed on the following two (2) pages, result in a total net increase in the Fixed Bid of Cost of Space Improvements of \$47,191 (Forty-Seven Thousand One Hundred Ninety-One and 00/00 Dollars).

Due to both the work and costs listed herein, the delay of the building structure from the steel building manufacturer, and the temporary suspension of work at Tenant's request on Monday, October 13, 2008, a time extension of fourteen (14) calendar days are hereby added to the Outside Completion Date, as defined in the Lease.

The following two (2) pages of this Change Order are initialed by the parties.

Landlord and Tenant have executed this approval of Change Order Number One (1), effective as of 24th day of September, 2008.

LANDLORD:

Wolfe Realty Investors, LLC
a Tennessee limited liability company

By: _____
Name: Wesley Wolfe
Title: Managing Member

TENANT:

Charter Communications, LLC
a Delaware limited liability company

By: Kathy Harrington
Name: Kathy Harrington
Title: VP-Corporate Real Estate

BY 10-24-08

Quotes/Costs to Tenant (Charter Communications) in Reference To:
 Qualifications/Clarifications of Lease Agreement PROPOSED CHANGE ORDER NO. 1

Item No.	Item Description	
1	Site Changes	No Change
2	Monument Signage	No Change
3	Landscaping @ Kiosk	No Change
6	Dock Doors Reloc.	No Change
8	Entrance Roof	No Change
10	HVAC Screens	No Change
13	Whse Floor PSI	No Change
14	Rm #125 Cabinetry	No Change
18	7 Pipe Bollards	4900
21	Refrigerator	No Change
22	Paving	No Change
26	Carpet Subcontractor advises that he has better price)	No Change
27	Auto Openers/Card Readers See notation at end of recap	8100
29	Microwave Loc/Cab Doors	No Change
30	(See #54) AHU-10 in Wall AHU-10 is mounted in wall overhead	No Change
32	Frost Proof Water Hydrant	2425
37	Door #105-Alum; #135-HG	2300
38	Receptacles in Lan Room See "Electrical" notation at end	No Change
39	Updated Floor Plan	No Change
15	103/104 Shelving Detail	1025
17	Vending Area/Stand	675
45	Install Ice Machine	No Change
49	Pull Boxes Added pull boxes at building for data empties	900
51	White Boards	HOLD
54	Converter Rm. HVAC	14616
55	Converter Rm. HVAC Review	No Change
5	Due to Room Schedule, North will remain as the Dock Side of the Facility	No Change
16	Door 136 Swing Left Hand	No Change
33	Minimum Height of Sprinkler Heads at 19'-0"	No Change
53	Finishes	HOLD
	Electrical/fire alarm	8250
	Permit/Impact Fees and Owners Contingency	4000

TOTAL

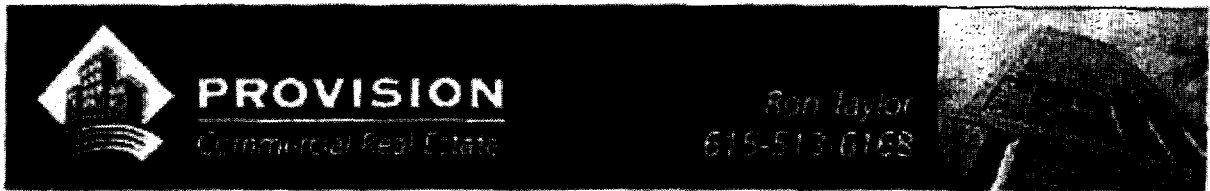
\$47,191

The eleven (11) card readers are HID-5365 proximity card readers (no cards included). We are supplying eleven (11) Securtron RTE PIRs DS160 mounted above the doors. We include the wiring to junction boxes above the ceiling. The doors include Securtron electric door strikes UNL-24 w/FSUNL-24 installed in door jambs. If Owner needs any Maglock's, add \$600.00 per door. The Maglock option would include Dortronic TJ-1000 maglocks, Securtron EEB2 emergency exit buttons and wiring to junction boxes above the ceiling. Tenant needs to advise with this change order due to ordering of materials.

Shell/Site costs balance.

EXHIBIT G

August 9, 2010 Letter



8-9-2010

To Whom It may concern,

Provision Commercial Real Estate, a commercial real estate firm in Franklin, Tennessee has marketed Lot 7, Parkway Business Center located at 1025 Parkway Blvd. Spring Hill, Tennessee during the time Charter Communications worked through the Build to Suit process and after Charter Communications signed the Build to Suit Lease with Wolfe Companies.

Provision Commercial Real Estate began marketing the Lot FOR SALE beginning April 30, 2009 when it was learned that Charter Communications had filed Chapter 11 bankruptcy . The lot has been marketed through signage, commercial listing services and through real estate contacts.

Due to market conditions, there has been little interest in the lot even though the lot is priced at \$833,000.... far below what the owner has in the lot.

If there is anything further I can add, please do not hesitate to ask.

Thanks,

Ron Taylor

Principal Broker / Owner

Provision Commercial Real Estate

615-513-6168

EXHIBIT H

April 13, 2009 E-mails

Don McCartney

From: Don McCartney [donmccartney@wolfecompanies.com]

Sent: Monday, April 13, 2009 8:20 AM

To: 'William Boutwell'

Subject: Charter Building

William,

There are primary reasons, due to the Chapter 11 filing of Charter Communications, that we cannot advertise a price for the building in Spring Hill, TN. We do recognize the loss of taxes that we have paid and probably 20% of the price that we paid. We also recognize the costs to have the building shipped elsewhere. If you and or Crown can receive an offer for the building, it would be in our best interest at this time with Charter Communication.

Don McCartney
VP Construction Division

WOLFE COMPANY, LLC

3021 Hwy 45 Bypass

Suite 101

Jackson TN 38305

TEL: 731/664-7581

FAX: 731/660-8510

CELL: 731/695-1530

No virus found in this outgoing message.

Checked by AVG.

Version: 7.5.557 / Virus Database: 270.11.53/2054 - Release Date: 4/11/2009 10:51 AM

8/12/2010

Don McCartney

From: Don McCartney [donmccartney@wolfecompanies.com]

Sent: Monday, April 13, 2009 8:55 AM

To: 'William Boutwell'

Subject: Websites

William,

Please advise me of your website address and Crowns. Thank you.

Don McCartney
VP Construction Division

WOLFE COMPANY, LLC

3021 Hwy 45 Bypass

Suite 101

Jackson TN 38305

TEL: 731/664-7581

FAX: 731/660-8510

CELL: 731/695-1530

No virus found in this outgoing message.

Checked by AVG.

Version: 7.5.557 / Virus Database: 270.11.53/2054 - Release Date: 4/11/2009 10:51 AM

Don McCartney

From: William Boutwell [wmboutwell@eplus.net]
Sent: Monday, April 13, 2009 11:35 AM
To: Don McCartney
Subject: Re: Websites

Don,
Crowns website is crownmetalbldg.com.....They are re-designing it.
My two web sites are metalchurchstructures.com and metalbuildingsys.com.
The metalbuildingsys will be changing as soon as I can get another company to do it. Knowledge Link has had the contract to do it since Dec. 2008 and have not completed it yet.

2009/4/13 Don McCartney <donmccartney@wolfecompanies.com>

William,

Please advise me of your website address and Crowns. Thank you.

Don McCartney

VP Construction Division

WOLFE COMPANY, LLC

3021 Hwy 45 Bypass

Suite 101

Jackson TN 38305

TEL: 731/664-7581

FAX: 731/660-8510

CELL: 731/695-1530

No virus found in this outgoing message.

Checked by AVG.

Version: 7.5.557 / Virus Database: 270.11.53/2054 - Release Date: 4/11/2009 10:51 AM

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William Boutwell
115 Silverdale CV
Jackson, TN 38305
T 731-512-3751
F 731-512-3695
C 731-697-7646

No virus found in this incoming message.

Checked by AVG.

Version: 7.5.557 / Virus Database: 270.11.54/2056 - Release Date: 4/13/2009 5:51 AM

Don McCartney

From: Don McCartney [donmccartney@wolfecompanies.com]
Sent: Thursday, June 11, 2009 10:23 AM
To: 'wesleywolfe@wolfecompanies.com'
Subject: Charter PEMB
Attachments: PEMB dwgs 1_6 Charter.zip; PEMB dwgs 7_12 Charter.zip; PEMB dwgs 13_17 Charter.zip;
TEMP006 A501.PDF; TEMP004 A0G3.PDF; TEMP005 A001.PDF; TEMP005 A100.PDF;
TEMP006 A301.PDF; TEMP006 A302.PDF

Wes,

If you can forward these Crown PEMB drawings and limited Architectural drawings over to Shane with instructions as to your intent of use, it should be adequate.

Don McCartney
VP Construction Division

WOLFE COMPANY, LLC

3000 Greystone
Jackson TN 38305
TEL: 731/664-7581
FAX: 731/660-8510
CELL: 731/695-1530