

## UNDERGROUND UTILITY EASEMENT

The **County of Dane**, a Wisconsin municipal corporation (the "County") being the owner of the property located at 1202 Northport Drive, Madison, Wisconsin, and further described in Exhibit A, with the consent of the **City of Madison** (the "City") being the grantee of an easement over a portion of said property for City water tower, booster station, and water main purposes (said easement rights further described in the attached City consent page) in consideration of the sum of One Dollar (\$1.00) and other valuable consideration, the receipt whereof is hereby acknowledged, does grant, set over and convey to **Charter Communications-CCVIII Operating, LLC**, a Wisconsin limited liability company (the "Grantee"), a non-exclusive permanent easement for underground utility purposes ("Easement") in, on, under and through the "Easement Area" described on attached Exhibit A and depicted on attached Exhibit B.

This Easement is subject to the following terms and conditions:

RETURN TO: Charter Communications  
—CCVIII Operating, LLC

Tax Parcel No.: 251-0809-253-0099-1 (part of)

1. Use. The Grantee's use of the Easement Area shall be limited to the right to construct, maintain, operate and/or remove underground telecommunication facilities, including, without limitation, cables, wires and conduit (collectively, the "Facilities"), together with the right of ingress and egress across the Property and Easement Area for the purpose of access to and use of the Facilities.
2. Restrictions on Use. Notwithstanding the provisions of Paragraph 1, the Grantee's use of this Easement shall be restricted as follows:
  - a. No boxes, switch-gears, meters, valves, or other above-ground facilities will be allowed in the Easement Area without prior written approval of the County and consent of the City.
  - b. This Easement shall not be used for the purpose of constructing or operating a video service, as that term is defined by Wis. Stat. Section 66.0420(2)(y) or successor statute, without first obtaining a franchise from the State of Wisconsin.
  - c. Grantee shall not use the Easement Area for open storage of or permanent parking of vehicles or equipment of any kind.
3. Construction, Repair and Maintenance.
  - a. Initial construction of the Facilities shall not commence without the prior written approval of applicable plans and specifications by the County and consent of the City.
  - b. With the exception of routine maintenance and repairs and normal utilization of the

Facilities, no changes to or alterations of the Facilities shall be permitted without the prior written approval of applicable plans and specifications by the County and consent of the City.

- c. The work of construction, repair and maintenance shall be done and completed in a good and professional manner at the sole expense of the Grantee and shall be performed in such a manner as in no way to interfere with or endanger the use of the Easement Area. In all cases, the Grantee shall be responsible for following all applicable ordinances, codes, statutes, and laws, and obtaining all permits required for any construction, repair or maintenance activity.
- d. No trees or plantings shall be removed from the Easement Area or otherwise disturbed without the prior written approval of the County.
- e. Following the installation or maintenance of the Facilities and final grading of the Easement Area (or as soon thereafter as weather reasonably permits), the Grantee will promptly restore the Property and Easement Area in a manner satisfactory to the County.
- f. Following the installation of the Facilities and final grading of the Easement Area, no grade change to the Easement Area shall be made by either party without the prior written approval of the other party.
- g. The Grantee shall install its Facilities a minimum of 3 ft. distant and north from existing facilities installed by Madison Gas and Electric Company as well as AT&T Facilities within the Easement Area.

- 4. Reasonable Use and Occupation by County and City. The County and City reserve the right of reasonable use and occupation of the Easement Area, provided that such use and occupancy shall not interfere with or disturb the installation, operation, maintenance, repair, replacement and/or modification of the Facilities. If any reasonable use and occupation of the Easement Area by the County or City shall necessitate the Grantee to remove or relocate the Facilities or any part thereof, the Grantee shall perform such work at such time as the County or City may approve; at the expense of the Grantee.
- 5. Term. This Easement shall continue for so long as the Facilities are in use, and in the event and to the extent that the Facilities shall be removed or abandoned then this Easement shall terminate and the Grantee will execute and deliver to the City such document(s) as may be requested for the purpose of further evidencing the termination of the rights granted hereby.
- 6. Notice of Entry. Except for emergencies, routine maintenance and repairs, and normal utilization of the Facilities, the Grantee shall give the County at least thirty (30) days written notice before entering upon the Easement Area for construction purposes or for the purpose of performing significant alteration to or removal of the Facilities.
- 7. Termination. In the event the Grantee defaults in the performance of any term or condition of this Easement and fails to remedy such default within thirty (30) days after written notice from the County, the County shall have the right, at its sole option, to declare this Easement void and terminate the same. Notwithstanding the foregoing, if such default is not a health or safety violation and cannot, because of the nature of the default, be cured within said thirty (30) days,

then the Grantee shall be deemed to be complying with such notice if, promptly upon receipt of such notice, the Grantee immediately takes steps to cure the default as soon as reasonably possible and proceeds thereafter continuously with due diligence to cure the default within a period of time which, under all prevailing circumstances, shall be reasonable.

8. Restoration of Easement Area. Upon the termination of this Easement for any cause, the Grantee shall remove the Facilities and all appurtenances and shall promptly restore the Easement Area and Property in a manner satisfactory to the County.
9. Indemnification. The Grantee shall be liable to and agrees to indemnify, defend and hold harmless the County, the City, and their officers, officials, agents, and employees, against all loss or expense (including liability costs and attorney's fees) by reason of any claim or suit, or of liability imposed by law upon the County, the City, or their officers, officials, agents or employees for damages because of bodily injury, including death at any time resulting therefrom, sustained by any person or persons or on account of damages to property, including loss of use thereof, arising from, in connection with, caused by or resulting from the acts or omissions of the Grantee or its officers, officials, agents, employees, assigns, guests, invitees, or subcontractors, in the performance of this Easement, whether caused by or contributed to by the negligence of the County, the City, their officers, officials, agents, or employees.
10. Authorized Agent. The County's Real Estate Coordinator or the Real Estate Coordinator's designee is hereby designated as the official representative of the County for the enforcement of all provisions of this Easement, with authority to administer this Easement lawfully on behalf of the County.
11. Notices. All notices to be given under the terms of this Easement shall be signed by the person sending the same, and shall be sent by certified mail, return receipt requested and postage prepaid, to the address of the parties specified below:

For the County:     Real Estate Coordinator  
Dane County Land & Water Resources Department  
5201 Fen Oak Drive, Room 208  
Madison, WI 53718

For the City:        Office of Real Estate Services  
Economic Development Division  
P.O. Box 2983  
Madison, WI 53701-2983

For Grantee:         Charter Communications-CCVIII Operating, LLC

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Any party hereto may, by giving five (5) days written notice to the other party in the manner herein stated, designate any other address in substitution of the address shown above to which notices shall be given.

11. Compliance. The County and the Grantee shall comply with all applicable laws, including, but

not limited to, any laws, standards, regulations, or permit requirements relating to environmental pollution or contamination or to occupational health and safety.

12. Severability. If any term or provision of this Easement is held to be invalid or unenforceable by a court of competent jurisdiction, then such holding shall not affect any of the remaining terms and provisions of this Easement and the same shall continue to be effective to the fullest extent permitted by law.
13. Binding Effect. This Easement shall inure to the benefit of the Grantee and shall be binding upon the City, and their respective successors and assigns.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

**COUNTY OF DANE**

By: \_\_\_\_\_  
Scott McDonell, County Clerk

State of Wisconsin     )  
                                      )ss.  
County of Dane         )

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 2017, the above named Scott McDonell, County Clerk of the County of Dane, acting in said capacity and known by me to be the person who executed the foregoing instrument and acknowledged the same.

\_\_\_\_\_  
Notary Public, State of Wisconsin

\_\_\_\_\_  
(print or type name of notary)  
My Commission: \_\_\_\_\_

## CONSENT OF CITY OF MADISON

The City of Madison, being the grantee of that certain Easement from the County of Dane, dated November 18, 1997, and recorded November 21, 1997, with the Dane County Register of Deeds as Document No. 2909070; as amended by Amendment to Easement dated June 18, 2001, and recorded June 26, 2001 with the Dane County Register of Deeds as Document No. 3339293; and as further amended by Second Amendment to Easement dated September 3, 2014, and recorded September 4, 2014 with the Dane County Register of Deeds as Document No. 5095946 (collectively, the "Water Tower Easement"); which Water Tower Easement overlaps a portion of the Easement Area herein described, does hereby consent to the grant by the County of this Easement.

Signed this \_\_\_\_ day of \_\_\_\_\_, 2017.

### City of Madison

By: \_\_\_\_\_  
Paul R. Soglin, Mayor

By: \_\_\_\_\_  
Maribeth L. Witzel-Behl, City Clerk

State of Wisconsin    )  
                                  )ss.  
County of Dane        )

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 2017, the above-named Paul R. Soglin, Mayor of the City of Madison, acting in said capacity and known by me to be the person who executed the foregoing instrument and acknowledged the same.

\_\_\_\_\_  
Notary Public, State of Wisconsin

\_\_\_\_\_  
Print or Type Name  
My Commission: \_\_\_\_\_

State of Wisconsin    )  
                                  )ss.  
County of Dane        )

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 2017, the above-named Maribeth Witzel-Behl, City Clerk, acting in said capacity and known by me to be the person who executed the foregoing instrument and acknowledged the same.

\_\_\_\_\_  
Notary Public, State of Wisconsin

\_\_\_\_\_  
Print or Type Name  
My Commission: \_\_\_\_\_

Execution of this Easement by the County of Dane is authorized by  
2017 ACT \_\_\_\_ adopted by the Dane County Public Works & Transportation Committee on \_\_\_\_\_  
\_\_\_\_, 2017.

The consent to this Easement by the City of Madison is authorized by City of Madison Common  
Council Resolution Enactment No. RES-14-00558, File ID No. 34573, adopted July 15, 2014.

Drafted by the City of Madison Office of Real Estate Services

## **EXHIBIT A**

### **THE PROPERTY**

Lot 1 of Certified Survey Map No. 12189, as recorded in the Dane County Register of Deeds in Volume 75, Page 171 of Certified Survey Maps, located in the NE ¼ of the SW ¼ of Section 25, T8N, R9E, City of Madison, Dane County Wisconsin.

Property Address: 1202 Northport Drive, Madison, WI 53703

### **THE EASEMENT AREA**

A strip of land, ten (10) feet in width, located in Lot 1, Certified Survey Map No. 12189, as recorded in the Dane County Register of Deeds in Volume 75, Page 171 of Certified Survey Maps, City of Madison, Dane County, Wisconsin, the centerline of said strip being more particularly described as follows:

The Easement Area shall be located 5 feet on the right side and 5 feet on the left side of the centerline of the Grantee's facilities as constructed. The facilities will be located approximately as set forth in the drawing attached hereto as Exhibit B.