



## MEMORANDUM

**TO:** Mayor Laurel Lunt Prussing and Members of the City Council  
**FROM:** Gale L. Jamison, Assistant City Engineer  
William R. Gray, Public Works Director  
**DATE:** July 27, 2011  
**RE:** Amendment to Agreement for use of Right-of-Way, Windstream KDL, Inc.

### INTRODUCTION

On May 16, 2011 the City Council approved and the Mayor executed a license agreement with Windstream KDL, Inc. of Overland Park, Kansas to authorize the installation of fiber optic cables both above ground on Ameren power poles and below ground in conduits within the rights-of-way of the City. The proposed routing of the fiber optic cable was depicted in Exhibits A, B and C to the license agreement. During the installation of the fiber optic cable it became necessary to change the routing such that a portion of the installation fell outside the limits defined in the Exhibits to the license agreement. The change in routing requires changes only to Exhibit A. There are no other changes to the agreement. It is necessary to amend the agreement to substitute the revised Exhibit A, dated July 26, 2011, for the original Exhibit A, dated September 20, 2010, attached to the license agreement. The proposed Amendment is attached.

### FISCAL IMPACT

As previously stated the installation of the fiber optic conduit/cable including the rerouted portion is at no cost to the City.

### RECOMMENDATION

It is recommended that the City Council approve **AN ORDINANCE APPROVING A FIRST AMENDMENT TO AN AGREEMENT FOR USE OF RIGHT-OF-WAY WITH WINDSTREAM KDL, INC. (New Construction Boundaries)**

ORDINANCE NO. 2011-08-102

AN ORDINANCE APPROVING A FIRST AMENDMENT TO AN AGREEMENT FOR USE  
OF RIGHT-OF-WAY WITH  
WINDSTREAM KDL, INC.

(New Lincoln Avenue Construction Boundary)

**WHEREAS**, the parties hereto did on the 16th of May 2011, pursuant to Ordinance No. 2011-04-031, enter into an agreement to allow Windstream KDL, Inc. ("Windstream") to install fiber optic cables both above ground and below ground within the certain rights-of-way of the City of Urbana ("City"); and

**WHEREAS**, Windstream and the City have determined that the best interests of both entities are served by making and entering into an amendment to said agreement to authorize a new construction boundary for the Lincoln Avenue right-of-way.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Urbana, Champaign County, Illinois, as follows:

**Section 1.**

The amendment to the prior agreement, as reflected in the attached agreement entitled: "First Amendment to an Agreement for Use of Right-Of-Way between the City of Urbana and Windstream KDL, Inc." is hereby authorized and approved.

**Section 2.**

The Mayor of the City of Urbana, Illinois, be and the same is hereby authorized to execute and deliver and the City Clerk of the City of Urbana, Illinois, be and the same is hereby authorized to attest to said execution of said amendment as so authorized and approved for and on behalf of the City of Urbana, Illinois.

**PASSED BY THE CITY COUNCIL** this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

AYES:

NAYS:

ABSENT:

ABSTAINED:

\_\_\_\_\_  
Phyllis D. Clark, City Clerk

**APPROVED BY THE MAYOR** this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Laurel Lunt Prussing, Mayor

**After recording return to:**

City of Urbana Legal Division  
400 S. Vine Street  
Urbana, IL 61801

**FIRST AMENDMENT TO AGREEMENT FOR USE OF RIGHT-OF-WAY MADE  
BETWEEN THE CITY OF URBANA, ILLINOIS AND WINDSTREAM KDL, INC.  
(New Lincoln Avenue Construction Boundary)**

THIS FIRST AMENDMENT is entered into by and between the City of Urbana, Illinois (hereinafter "City") and Windstream KDL, Inc. (hereinafter "the Company").

The City and the Company mutually agree to the following amendment to the Agreement for Use of Right-of-Way (hereinafter "Agreement"), authorized by Ordinance No. 2011-04-031, and entered into on May 16, 2011:

Exhibit A of the Agreement, dated September 20, 2010, is hereby replaced with a revised Exhibit A, dated July 26, 2011, designating a new construction boundary for Lincoln Avenue. A copy of the revised Exhibit A is attached to this First Amendment and is made a part of the Agreement.

All other terms and conditions of the Agreement remain in full force and effect.

This First Amendment shall take effect upon execution by the City and the Company.

This First Amendment will be recorded in the Office of the Champaign County Recorder of Deeds at the expense of the City.

The duly authorized representatives of the City and the Company have executed this First Amendment as of the dates shown.

**City of Urbana, Illinois:**

\_\_\_\_\_  
Laurel Lunt Prussing  
Mayor

\_\_\_\_\_  
Date

*First Amendment to Agreement for Use of Right-of-Way made between the City of Urbana,  
Illinois and Windstream KDL, Inc.*

**ATTEST:**

\_\_\_\_\_  
Phyllis Clark  
City Clerk

**Windstream KDL, Inc.:**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Date

Title \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
Assistant Secretary (Signature)

\_\_\_\_\_  
Kristi Moody



### EXHIBIT A LEGEND

- EXISTING RIGHT OF WAY LINE
- PROPOSED CONSTRUCTION BOUNDARY

REV	DATE	DESCRIPTION	ENG	DRAFTER

**EXHIBIT A**  
 ROUTE: 487  
 PROJECT: VZW SITE 9  
 LOCATION: URBANA, CHAMPAIGN CO., IL

DESIGNED BY:	
DRAWN BY:	RLF
SCALE:	NTS
DATE DRAWN:	7/26/11
FILE NAME:	CONSTRUCTION DRAWINGS
PROJECT NUMBER:	487
SHEET:	?
TOTAL SH:	?

THIS PRINT AND DESIGN ARE THE SOLE PROPERTY OF WINDSTREAM KDL, INC. AND SHALL BE CONSIDERED CONFIDENTIAL. THIS PRINT MAY NOT BE REPRODUCED IN ANY MANNER WITHOUT THE WRITTEN PERMISSION OF WINDSTREAM KDL, INC. AND SHALL BE RETURNED UPON REQUEST.

**WINDSTREAM KDL, INC.**  
 3701 COMMUNICATIONS WAY  
 EVANSVILLE, IN 47715 (800) 709-5690