



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: September 6, 2012
RE: Third Amendment to Agreement for Use of Right-of-Way, Windstream KDL, Inc.

INTRODUCTION

On May 16, 2011, August 1, 2011, and again on April 2, 2012 the City Council approved and the Mayor executed license agreements with Windstream KDL, Inc. of Overland Park, Kansas to authorize the installation of fiber optic cables both above ground on Ameren IP power poles and below ground in conduits within the rights-of-way of the City. The proposed routing of the fiber optic cable is depicted in Exhibit D in the attached license agreement. Windstream wishes to install underground additional fiber optic cable on the north side of West Kenyon Road and the south side of West Killarney Street both streets west of North Lincoln Avenue, the west side of North Lincoln Avenue between West Killarney Street and West Bradley Avenue and the north side of West Bradley Avenue between North Lincoln Avenue and North Goodwin Avenue.

FISCAL IMPACT

The proposed installation of the additional fiber optic conduit/cable is at no cost to the City. This agreement will provide no direct revenue to the City.

RECOMMENDATION

It is recommended that the City Council approve the attached ordinance entitled **THIRD AMENDMENT TO AGREEMENT FOR USE OF RIGHT-OF-WAY MADE BETWEEN THE CITY OF URBANA, ILLINOIS, AND WINDSTREAM KDL, INC. (West Kenyon Road, West Killarney Street, North Lincoln Avenue, and West Bradley Avenue).**

ORDINANCE NO. 2012-09-086

AN ORDINANCE APPROVING A THIRD AMENDMENT TO AN AGREEMENT FOR USE OF RIGHT-OF-WAY BETWEEN THE CITY OF URBANA AND WINDSTREAM KDL, INC.

(West Kenyon Road, West Killarney Street, North Lincoln Avenue, and West Bradley Avenue)

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 a third amendment to said agreement to authorize an additional construction boundary for the West Kenyon Road, West Killarney Street, North Lincoln Avenue, and West Bradley Avenue rights-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: "Third Amendment to an Agreement for Use of Right-Of-Way between the City of Urbana and Windstream KDL, Inc. (West Kenyon Road, West Killarney Street, North Lincoln Avenue, and West Bradley Avenue)" 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

**THIRD AMENDMENT TO AGREEMENT FOR USE OF RIGHT-OF-WAY MADE
BETWEEN THE CITY OF URBANA, ILLINOIS, AND WINDSTREAM KDL, INC.
(West Kenyon Road, West Killarney Street, North Lincoln Avenue, and West Bradley
Avenue)**

THIS THIRD 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 D of the Agreement, dated March 16, 2012, is hereby replaced with a revised Exhibit D, dated August 22, 2012, designating a new construction boundary for West Kenyon Road, West Killarney Street, North Lincoln Avenue, and West Bradley Avenue. A copy of the revised Exhibit D is attached to this Third Amendment and is made a part of the Agreement.

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

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

This Third 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 Third Amendment as of the dates shown.

City of Urbana, Illinois:

Laurel Lunt Prussing
Mayor

Date

*Third 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

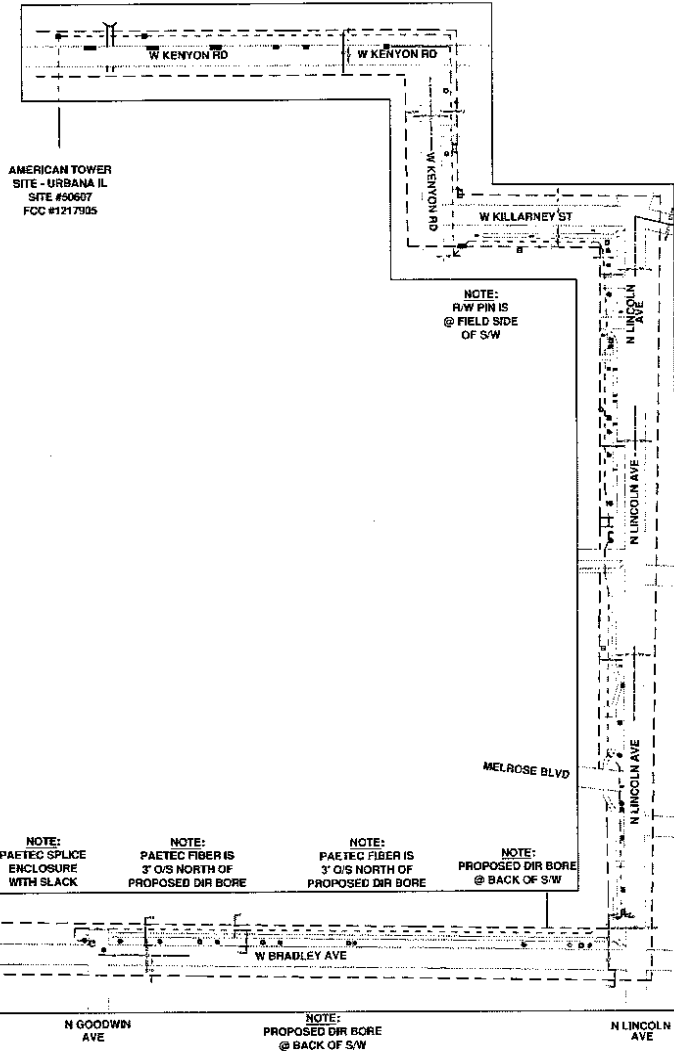
Windstream KDL, Inc.:

Name

Date

Title _____

ATTEST:



AMERICAN TOWER
SITE - URBANA IL
SITE #50607
FOC #1217325

NOTE:
R/W PIN IS
@ FIELD SIDE
OF S/W

NOTE:
DIR BORE BETWEEN
R/W FENCE &
BACK OF S/W

NOTE:
PAETEC SPLICE
ENCLOSURE
WITH SLACK

NOTE:
PAETEC FIBER IS
3' O/S NORTH OF
PROPOSED DIR BORE

NOTE:
PAETEC FIBER IS
3' O/S NORTH OF
PROPOSED DIR BORE

NOTE:
PROPOSED DIR BORE
@ BACK OF S/W

NOTE:
PROPOSED DIR BORE
@ BACK OF S/W

EXHIBIT D LEGEND

- EXISTING RIGHT OF WAY
- ▭ PROPOSED CONSTRUCTION BOUNDARY

WINDSTREAM KDL, INC.
3701 COMMUNICATIONS WAY
EVANSTON, IL 60201 (800) 708-5650

THIS DRAWING IS THE PROPERTY OF WINDSTREAM KDL, INC. AND IS NOT TO BE REPRODUCED OR COPIED IN ANY MANNER WITHOUT THE WRITTEN PERMISSION OF WINDSTREAM KDL, INC.

EXHIBIT D
ROUTE: #718625164
PROJECT: VZW SP 174 URBANA, IL
LOCATION: URBANA, CHAMPAIGN CO., IL

DESIGNED BY: LBD	
SCALE: NTS	
DATE DRAWN: 6/22/12	
P.E. NAME: CONSTRUCTION DRAWINGS	
PROJECT NUMBER: #718625164	
SHEET: E1	TOTAL SH: 1