



## MEMORANDUM

**TO:** Bruce K. Walden, Chief Administrative Officer  
**FROM:** William R. Gray, P.E., Public Works Director  
Barbara H. Stiehl, Assistant to the Public Works Director  
**DATE:** February 6, 2004  
**RE:** Wakeland Rentals Request to Install Cable at Various Locations in Urbana

### INTRODUCTION

Wakeland Rentals has requested permission from the City of Urbana to install a one-inch diameter conduit containing two cables crossing from 306 North Harvey Street to 304 North Harvey Street, through the alley to connect 1012 West Main Street, 1010 West Main Street and 1004 West Main Street and a one-inch diameter conduit crossing from 1008 West Main Street to 1007 West Main Street, through an alley to connect 204 North Harvey Street, 203 North Gregory Street, 908 West Stoughton Street and across Lincoln Avenue to connect 813 West Main Street, to serve several properties they own. Attached is Exhibit A that shows the locations for the conduit. The purpose of the cable is to provide high-speed Internet access to these properties.

In order for Wakeland Rentals to install the conduit in City rights-of-way, a license agreement is necessary. Attached please find a draft agreement for use of rights-of-way, which outlines the conditions for permitting Wakeland Rentals to occupy the public rights-of-way with a conduit.

### FISCAL IMPACTS

There would be no financial impacts to the City since the installation and maintenance for the conduit is solely at Wakeland Rentals' expense. Additionally, Wakeland Rentals is indemnifying the City against any losses, claims, etc., that may occur as a result of the conduit installation at this location.

### RECOMMENDATION

It is recommended that "AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT FOR USE OF RIGHTS-OF-WAY" be approved.

Attachments: Exhibit A  
Agreement  
Ordinance



# EXHIBIT A

LEGEND  
 Wakeland Rental Properties



City of Utens  
 Public Works Dept  
 Engineering Div  
 Date: 07/20/04 PLS



## AGREEMENT FOR USE OF RIGHTS-OF-WAY

### [Various Locations]

THIS AGREEMENT, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2004, by and between the CITY OF URBANA, a municipal corporation of the State of Illinois (hereinafter "City"), and Wakeland Rentals (hereinafter "Company"),

#### WITNESSETH:

FOR AND IN CONSIDERATION of the mutual covenants and agreements herein contained, the City and the Company do mutually covenant and agree as follows:

A. The alley is a 16.5-foot dedicated right-of-way adjacent to the backlots of properties, which border the south side of Main Street and the north side of Stoughton Street between the east right-of-way of Harvey Street and the west right-of-way of Lincoln Avenue; Lincoln Avenue is a 66-foot dedicated right-of-way between western right-of-way of the abovementioned alley and adjacent to the property at 813 West Main Street; the alley is a 16.5-foot right-of-way adjacent to the backlots of properties, which border the north side of Main Street and the south side of Clark Street between the east right-of-way of Harvey Street and the west right-of-way of Gregory Street; Main Street is a 66-foot dedicated right-of-way between the east right-of-way of Harvey Street and the west right-of-way of Gregory Street.

B. The Company is herein granted by the City a limited right to bury a one-inch conduit containing two cables under such rights-of-way. This limited right is wholly dependent upon the Company, its successors and assigns, fully and faithfully performing and complying with all the terms, conditions, and covenants contained within this Agreement. The Company expressly acknowledges and agrees that such limited right is immediately revocable at the option of the City in the event that the Company, its successor or assign, fails to perform or comply with any term, condition or covenant set forth within this Agreement. Further, it is expressly understood that regardless of the existence or not of any breach, the use by the Company of the hereinabove described right-of-way shall at all times be subordinate to the City's use of said right-of-way.

C. The purpose of the herein permitted right to construct upon such rights-of-way shall be limited solely to the installation and maintenance of a one-inch conduit, which is shown on Exhibit A, and use thereof, and for incidental uses directly related thereto. Upon cessation of such use as determined by the Director of Public Works of the City of Urbana (hereinafter "Director"), this Agreement shall immediately lapse and terminate. Any additional use other than that specifically named, without the further express written consent of the City, shall be construed as a violation of this Agreement.

D. When so instructed by the Director, the Company will cause the conduit to be removed, as nearly as possible in conformance with the Director's request, within thirty (30) days after receipt of written notice from the Director. The Company is solely and entirely responsible for any and all costs directly or indirectly related to such removal and restoration in kind of the rights-of-way.

**AGREEMENT FOR USE OF RIGHTS-OF-WAY (cont'd.)**  
**Between the *City of Urbana* and *Wakeland Rentals***  
**[Various Locations]**

E. In the event of an emergency, defined as imminent peril to person or property, or when the Company has inadequately complied with an order of the Director pursuant to Paragraph (D) above, or at any other time the Director or other responsible City official in good faith deems the procedures of Paragraph (D) impracticable under the circumstances present, the Company consents and agrees that the City or its duly authorized agent may remove the conduit, or any portion thereof, and charge all costs and expenses incurred in such removal, disposal, and restoration to the Company. Should the Company fail in any way to make timely payment to the City for such costs and expenses, the Company agrees to pay, in addition to any amount so owed, reasonable attorneys' fees and court costs incurred in the collection of such amount.

F. The Company agrees to defend the City from and against any claims, suits, or actions for death or injury to persons or damage to property or breach of the contract brought against the City arising from any alleged claims, acts, or omissions in connection with this Agreement, including the installation of the conduit, whether or not suit is filed unless such claim, suit, or cause of action was based solely upon the negligence of the City, its employees, agents, or contractors. Additionally, the Company shall indemnify the City for any sums the City becomes obligated to pay as damages arising out of such circumstances except to the extent such damages are due to the negligence of the City, its employees, agents, or contractors

G. The Company acknowledges that it shall be fully responsible and bear all costs associated with any and all maintenance or repair of the conduit and cables.

H. The Company shall provide to the City, upon completion of the conduit installation, as-built plans.

I. This Agreement shall be expressly binding upon both parties, their successors and assigns. This Agreement shall be valid only upon being duly recorded by the Recorder of Deeds for Champaign County, Illinois.

\* \* \*

**AGREEMENT FOR USE OF RIGHTS-OF-WAY (cont'd.)**  
**Between the City of Urbana and Wakeland Rentals**  
**[Various Locations]**

In witness to their Agreement, the Parties have executed this document this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

**CITY OF URBANA**

**WAKELAND RENTAL PROPERTIES**

By: \_\_\_\_\_  
Mayor

By: \_\_\_\_\_  
President

ATTEST:

ATTEST:

By: \_\_\_\_\_  
City Clerk

By: \_\_\_\_\_  
Secretary

**APPROVED:**

By: \_\_\_\_\_  
Legal Counsel

\* \* \*

**Prepared by and please return recorded copy to:**

*Steve Holz, City Attorney*  
*City of Urbana, Illinois*  
*400 South Vine Street*  
*Urbana, Illinois 61801*

ORDINANCE NO. 2004-02-013

AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE  
AN AGREEMENT FOR USE OF RIGHTS-OF-WAY  
(Various Locations)

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

Section 1. That the Agreement for Use of Rights-of-Way (Along an alley between Main Street and Clark Street and Harvey Street and Gregory Street; Main Street between 1007 West Main Street and 1008 West Main Street; and in an alley between Main Street and Stoughton Street and Harvey Street and Lincoln Avenue across Lincoln Avenue to 813 West Main Street) between the City of Urbana and Wakeland Rentals, in the form of a copy of said Agreement attached hereto and hereby incorporated by reference, be and the same is hereby authorized and approved.

Section 2. That 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 Agreement as so authorized and approved for and on behalf of the City of Urbana, Illinois.

Section 3. The City Clerk is directed to publish this Ordinance in pamphlet form by authority of the corporate authorities, and this Ordinance shall be in full force and effect from and after its passage and publication in accordance with Section 1-2-4 of the Illinois Municipal Code.

This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called, of a majority of the members of the Council of the City of Urbana, Illinois, at a regular meeting of said Council.

PASSED by the City Council this \_\_\_\_\_ day of \_\_\_\_\_,  
2004.

AYES:

NAYS:

ABSTAINS:

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

APPROVED by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_,  
2004.

\_\_\_\_\_  
Tod Satterthwaite, Mayor