



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: March 15, 2012
RE: Second 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 Exhibit A to the license agreement. A first amendment to the agreement to substitute a revised Exhibit A, dated July 26, 2011, was passed by Council August 1, 2011. Windstream wishes to install additional fiber optic cable on the south side of West Kenyon Road west of Lincoln Avenue, the west side of North Lincoln Avenue between West Kenyon Road and Bradley Avenue and the north side of West Bradley Avenue between Lincoln Avenue and Goodwin Avenue. The location of the proposed installation is shown in Exhibit D, included in the proposed attached Second Amendment to the aforementioned May 16, 2011 license agreement.

FISCAL IMPACT

The proposed installation of the additional fiber optic conduit/cable is at no cost to the City.

RECOMMENDATION

It is recommended that the City Council approve **AN ORDINANCE APPROVING A SECOND AMENDMENT TO AN AGREEMENT FOR USE OF RIGHT-OF-WAY BETWEEN THE CITY OF URBANA AND WINDSTREAM KDL, INC. (West Kenyon Road, Lincoln Avenue and Bradley Avenue)**

ORDINANCE NO. 2012-03-030

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

(Kenyon Road, Lincoln Avenue and 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 an amendment to said agreement to authorize an additional construction boundary for the West Kenyon Road, Lincoln Avenue and 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: "Second Amendment to an Agreement for Use of Right-Of-Way between the City of Urbana and Windstream KDL, Inc. (West Kenyon Road, Lincoln Avenue and 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

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

THIS SECOND 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 attached to the Agreement for Use of Right-of-Way, designating an additional construction boundary for West Kenyon Road, Lincoln Avenue and Bradley Avenue. A copy of Exhibit D is attached to this Second Amendment and is made a part of the Agreement.

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

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

This Second 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

*Second 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

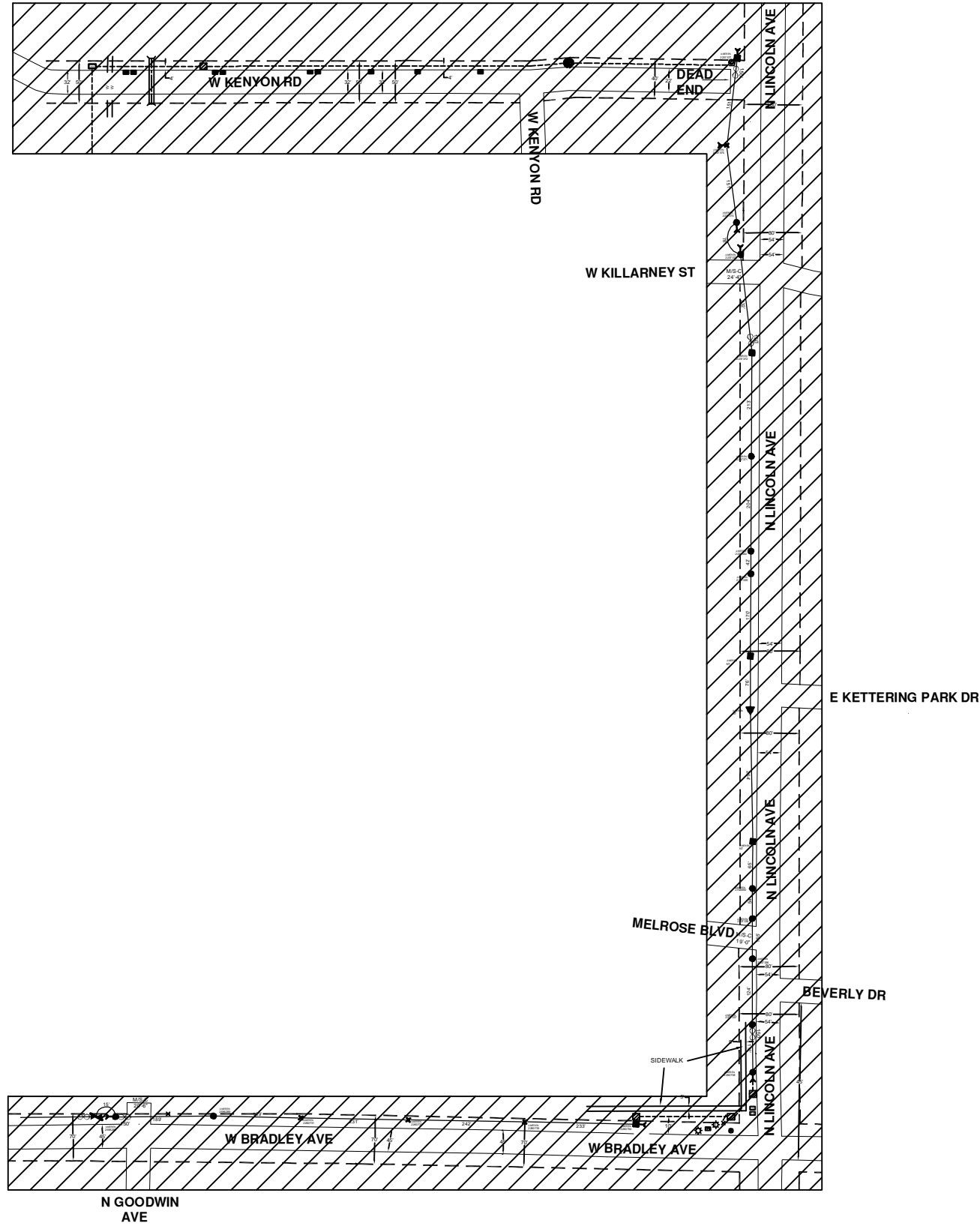


EXHIBIT D LEGEND

--- --- --- --- --- EXISTING RIGHT of WAY

 PROPOSED CONSTRUCTION BOUNDARY

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

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.

EXHIBIT D

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

DESIGNED BY:	
DRAWN BY: LBD	
SCALE: NTS	
DATE DRAWN: 3/16/12	
FILE NAME: CONSTRUCTION DRAWINGS	
PROJECT NUMBER: #718625164	
SHEET: 1	TOTAL SHT: 1