



## MEMORANDUM

**TO:** Mayor Laurel L. Prussing and Members of the City Council

**FROM:** William R. Gray, Public Works Director  
Bradley M. Bennett, Assistant City Engineer

**DATE:** July 10, 2014

**RE:** Gargoyle Technologies, Inc., Agreement for Use of Right-of-Way

### Action Requested

Approval of the attached ordinance entitled "AN ORDINANCE APPROVING A FIRST AMENDMENT TO AN AGREEMENT FOR USE OF RIGHT-OF-WAY WITH GARGOYLE TECHNOLOGIES, INC., D/B/A VOLO BROADBAND."

### Background and Facts

On May 8, 2014, the City Council approved and the Mayor executed a license agreement with Gargoyle Technologies (Volo Broadband) of Champaign, Illinois, to authorize the installation fiber optic cables 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, C, D, E, F, G and H 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 Exhibits A and H. There are no other changes to the agreement. It is necessary to amend the agreement to substitute the revised Exhibit A and H, dated July 1, 2014, for the original Exhibits A and H, dated April 21, 2014, which were attached to the license agreement. The proposed amendment is included for your reference.

### Financial Impact

The proposed installation will be at no cost to the City. Gargoyle Technologies, Inc. (Volo Broadband) is not subject to the City's utility maintenance fee for right-of-way occupation because it is a retailer of telecommunications services as defined under the Illinois Simplified Telecommunications Tax Act.

### Recommendations

It is recommended that the City Council approve the attached ordinance entitled "AN ORDINANCE APPROVING A FIRST AMENDMENT TO AN AGREEMENT FOR USE OF RIGHT-OF-WAY WITH GARGOYLE TECHNOLOGIES, INC., D/B/A VOLO BROADBAND."

Attachments: AN ORDINANCE APPROVING A FIRST AMENDMENT TO AN AGREEMENT FOR USE OF RIGHT-OF-WAY WITH GARGOYLE TECHNOLOGIES, INC., D/B/A VOLO BROADBAND

FIRST AMENDMENT TO AGREEMENT FOR USE OF RIGHT-OF-WAY (Gargoyle Technologies, Inc. d/b/a Volo Broadband)

ADMINISTRATION • ARBOR • ENGINEERING • ENVIRONMENTAL MANAGEMENT  
EQUIPMENT SERVICES • OPERATIONS • PUBLIC FACILITIES

**ORDINANCE NO. 2014-07-065**

**AN ORDINANCE APPROVING A FIRST AMENDMENT TO AN AGREEMENT FOR USE OF  
RIGHT-OF-WAY WITH GARGOYLE TECHNOLOGIES, INC., D/B/A VOLO BROADBAND**

**(Broadway Avenue between Water Street and Main Street)**

**WHEREAS**, the parties hereto did on the 8th day of May 2014, pursuant to Ordinance No. 2014-04-043, enter into an agreement to allow Gargoyle Technologies, Inc., d/b/a Volo Broadband ("Volo") to install fiber optic cables above and below ground within the certain rights-of-way of the City of Urbana ("City"); and

**WHEREAS**, Volo and the City have determined that the best interests of both entities are served by making and entering into a first amendment to said agreement to authorize Volo to install additional fiber optic cables above and below ground in the North Broadway Avenue right-of-way between East Water Street and East Main Street.

**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 Agreement for Use of Right-Of-Way, Gargoyle Technologies, Inc., d/b/a Volo Broadband," 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**

**Gargoyle Technologies, Inc., d/b/a Volo Broadband**

The Agreement for Use of Right-Of-Way made between the City of Urbana, Illinois ("City"), and Gargoyle Technologies, Inc., d/b/a Volo Broadband ("Company"), authorized by Ordinance No. 2014-04-043 and entered into on May 8, 2014, is hereby amended as follows:

1. Exhibit A is replaced with a revised Exhibit A, dated July 1, 2014, attached to and made a part of this First Amendment.
2. The following path description is added to the "Detailing Exhibit A" section of Exhibit H, "Network Buildout Written Description":

**Volo Street Path 006 (VSP6)** begins at the southwest corner of the County Plaza building on the east side of North Broadway Avenue and terminates twenty-six (26) feet south of the southeast corner of Goose Alley and North Broadway Avenue. The total pathway length is approximately eighty-nine (89) feet to be occupied by one (1) 1.0" HDPE duct. Standard depth for the duct is thirty-six (36) inches below finished grade. VSP6 begins at 40.112858° North, -88.207294° West and ends at 40.112890° North, -88.207550° West.

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 Company.

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

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

**City of Urbana, Illinois:**

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

\_\_\_\_\_  
Date

**ATTEST:**

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

**Gargoyle Technologies, Inc., d/b/a Volo Broadband**

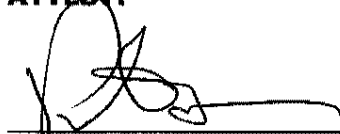


\_\_\_\_\_  
Name

\_\_\_\_\_  
Date

*Peter Folk, President*  
\_\_\_\_\_  
Title

**ATTEST:**



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

*Peter Folk*  
\_\_\_\_\_  
Name (Printed)

Attachment:      Exhibit A      Segment map (1 page)

# Exhibit A



## Exhibit H

# Network Buildout Written Description

Revision 1.6 June 25, 2014

### Scope:

This document provides a written language description of the proposed conduit segments as diagrammed in the accompanying schematic illustrations. These written descriptions are being provided to facilitate definition in writing for the license document.

### Detailing Exhibit A:

**Volo Street Path 006 (VSP6)** begins at the southwest corner of the County Plaza building on the east side of North Broadway Avenue and terminates twenty-six (26) feet south of the southeast corner of Goose Alley and North Broadway Avenue. The total pathway length is approximately eighty-nine (89) feet to be occupied by one (1) 1.0" HDPE duct. Standard depth for the duct is thirty-six (36) inches below finished grade. VSP6 begins at 40.112858° North, -88.207294° West and ends at 40.112890° North, -88.207550° West.