
Staff Summary Report

Council Meeting Date: 01/10/08

Agenda Item Number: _____

SUBJECT: Request City Council approval authorizing the Mayor to execute an agreement between Gobility Inc. dba Kite Networks, Telscape Communications, Inc., and the City of Tempe giving consent for Gobility, Inc. to assign and Telscape Communications, Inc. to assume with conditions the agreement for use of City property in connection with the operation of a WiFi network.

DOCUMENT NAME: 20080110ITDH1 **TELSCAPE COMMUNICATIONS (0802-33)**

SUPPORTING DOCS: No

COMMENTS: This Consent will allow the transfer all of the rights, obligations, and liabilities set forth in the agreement between the City and Gobility, Inc. dba Kite Networks to Telscape Communications, Inc.

PREPARED BY: DAVE HECK, DEPUTY IT MANAGER (x8777)

REVIEWED BY: GENE OBIS, IT MANAGER (x8353)

LEGAL REVIEW: JENAE NAUMANN, ASSISTANT CITY ATTORNEY (x8402)

FISCAL NOTE: Per the conditions of the original agreement, the City is responsible for payment of electricity charges for the WiFi Network for 300 nodes (as proposed in the RFP response) or an amount not to exceed \$ 15,000.00 per year (whichever amount is greater), and that any charges above this amount will then become the financial responsibility of Telscape Communications, Inc.

RECOMMENDATION: Staff recommends approval, authorizing the Mayor to execute an agreement between Gobility Inc. dba Kite Networks, Telscape Communications, Inc., and the City of Tempe giving consent for Gobility, Inc. to assign and Telscape Communications, Inc. to assume with conditions the agreement for use of City property in connection with the operation of a WiFi network.

**CONSENT OF THE CITY OF TEMPE ALLOWING
GOBILITY, INC. TO ASSIGN AND
TELSCAPE COMMUNICATIONS, INC. TO ASSUME WITH CONDITIONS
THE AGREEMENT FOR USE OF CITY PROPERTY
IN CONNECTION WITH THE OPERATION OF A WIFI NETWORK**

C2005-76B

The City of Tempe hereby gives its consent to Gobility Inc. dba Kite Networks to assign the current license and agreement, as amended (C2005-76 and C2005-76A) and to allow the transfer all of the rights, obligations, and liabilities thereto to Telscape Communications, Inc. ("Telscape"), who agrees to comply with the following provisions upon execution of this Consent to Assignment:

A. Telscape shall continue to provide to the City of Tempe the free Internet Access Service as required by Section 4.1 of the original agreement (C2005-76).

B. Telscape shall provide a minimum of 500 kb downlink for the free limited unrestricted Internet Access Service in "Downtown Tempe" as defined in Section 4.1(D) of the original agreement.

C. Telscape shall allow the City unlimited connectivity to the WiFi Network for transmission of telemetry data.

D. Telscape expressly understands and agrees that the City is responsible for payment of electricity charges for the WiFi Network for 300 nodes or an amount not to exceed \$ 15,000.00 per year (whichever amount is greater), and that any charges above this amount will then become the financial responsibility of Telscape.

E. Telscape shall enter into license and/or lease agreements with the City for City-owned backhaul locations and rooftops as required by Section 1.2 of the original agreement (No. C2005-76). Failure to enter into such license and/or lease agreements shall require Telscape to remove any installed WiFi Network-related equipment from these locations.

F. Telscape shall provide the City with the technical ability to actively monitor the status of the WiFi Network for public safety purposes.

G. Telscape shall modify the WiFi Network, if necessary, to comply with the Communications Assistance to Law Enforcement Act (CALEA) (effective May 14, 2007).

H. Telscape agrees to work with the City in developing and deploying a public safety network on a licensed 4.9 GHz frequency, subject to a subsequently negotiated mutually-acceptable agreement between the parties.

I. As a condition to the City's consent to this assignment, Telscape shall enter into a subsequently-negotiated mutually-acceptable service level agreement with the City for the in-kind accounts and services provided to the City in lieu of rental charges imposed for pole-top attachments.

THIS CONSENT OF ASSIGNMENT is executed this ____ day of January, 2008.

CITY OF TEMPE

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

GOBILITY, INC. dba KITE NETWORKS

By _____
Gary Brown, Chairman and CEO

Dated _____

TELSCAPE COMMUNICATIONS INC.

By _____
Tad Neeley, Chairman and
Chief Strategy Officer

Dated _____