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## Staff Summary Report

Council Meeting Date: 04/17/08

Agenda Item Number: \_\_\_\_\_

**SUBJECT:** Request approval authorizing the City Manager to cancel an agreement between Gobility, Inc., and the City of Tempe for use of City property in connection with the operation of a WiFi network.

**DOCUMENT NAME:** 20080417ITDH1 **BACKGROUND MAT'L FOR PURCHASE AGRMTS (1004-01)**

**SUPPORTING DOCS:** A copy of the agreement is available for review in the City Clerk's Office.

**COMMENTS:** N/A

**PREPARED BY:** Dave Heck, Deputy IT Manager (x8777)

**REVIEWED BY:** Andrew Ching, City Attorney (x8575)

**LEGAL REVIEW:** Jenae Naumann, Assistant City Attorney (x8402)

**FISCAL NOTE:** N/A

**RECOMMENDATION:** Staff recommends that Council authorize the City Manager to cancel agreement No. C2005-76 between Gobility, Inc. and the City of Tempe for use of City Property in Connection with the Operation of a WiFi Network.

**ADDITIONAL INFO:** The original agreement with NeoReach (a subsidiary of Mobilepro, who had responded to the City's RFP for a wireless internet service provider) was assigned to Gobility, Inc. on October 31, 2007. Gobility had executed an agreement with Mobilepro on July 8, 2007 to acquire the assets of NeoReach and Kite, who had been the owners/operators of the Network. Gobility, Inc. had intended to sell the Network shortly after its purchase, but was unsuccessful in doing so, and the Network began experiencing various problems.

Gobility is in material breach of their agreement and has failed to cure its defaults. The City is deriving minimal benefit from the agreement and cannot rely on it for public safety and other uses. Additionally, the City has been foregoing income from use of the right-of-way, as well as paying for electricity for the Network.