

DATE ISSUED: February 7, 2001 REPORT NO. 01-022

ATTENTION: Honorable Mayor and City Council
Docket of February 12, 2001

SUBJECT: Amended Attachment License Agreement With Metricom, Inc.

REFERENCE: Manager's Report No. 99-84, dated April 28, 1999

SUMMARY

Issue - Should the City Council approve an amended and restated Attachment License Agreement with Metricom, Inc. for the attachment of wireless radio receiver antennas on City-owned lightpoles.

Manager's Recommendation - Approve the amended Attachment License Agreement.

Other Recommendations - None.

Fiscal Impact - Revenues from the Agreement are estimated to be \$500,000 annually following the initial service distribution of the system. All revenue will be deposited to the General Fund.

BACKGROUND

Metricom, Inc. is a data telecommunications service provider specializing in regional wireless access to on-line computer services. Metricom currently maintains a nonexclusive License Attachment Agreement with the City (Document RR-291555,

May 4, 1999) allowing the company to utilize space on City-owned lightpoles for the placement of wireless radio receivers used for the company's Ricochet wireless network. The radio receivers are low-power, shoe-box sized units that have been installed at approximately 1,100 locations Citywide. Metricom's wireless radio network is currently operating in the City pursuant to the terms of the company's Agreement with the City.

Under Metricom's existing Agreement, the City receives a License Fee equivalent to 5% of the total gross revenues of the company for its operations in the public right-of-way. In addition, the City receives an annual fee of \$60.00 for each City lightpole utilized by Metricom for the placement of its radio receivers. The City has also received a specified number of no-cost

wireless service subscriptions and modem devices for City use.

On June 14, 2000, Metricom notified the City of a proposed business model change in which the company would enter into reseller agreements with other firms. Under this new business model, Metricom would cease selling its services directly to subscribers and solely provide its services through these specified resellers. Metricom will continue to maintain ownership and operation of its wireless network. Metricom's business model change was not anticipated at the time of the original negotiations with the company.

DISCUSSION

Based on review of Metricom's new business model for providing services through resellers, staff determined that the existing Attachment License Agreement language related to direct sales to subscribers was now inconsistent with Metricom's business practices. Based on these inconsistencies, it was determined that minor changes in the contract wording would need to be implemented in order to make the License Agreement consistent with the company's new practices. These changes consisted namely of removing references regarding the direct sale of services by Metricom to subscribers.

The proposed changes to the Metricom Attachment License Agreement are non-substantive and continue to be consistent with the objectives of Council Policy 900-13 (Telecommunications Policy) pertaining to the promotion of new telecommunications technologies and for obtaining fair compensation for the use of City property and the public right-of-way by telecommunications providers. The City currently maintains licenses and/or contracts with other wireless telecommunications service providers who maintain placement of equipment on City facilities.

ALTERNATIVE

Do not approve the amended and restated Attachment License Agreement with Metricom, Inc.

Respectfully submitted,

Richard E. Wilken
Director, Information Technology
and Communications

Approved: Dianah Neff
Deputy City Manager
Chief Information Officer

WILKEN/MSJ

ATTACHMENT 1. Amended and Restated Attachment License Agreement