



COUNCIL AGENDA: 11-09-04

ITEM: 53

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Katy Allen
Sara L. Hensley
James R. Helmer

SUBJECT: SEE BELOW

DATE: 11-01-04

Approved

Ray Wines

Date

11/2/04

Council District: 4

SUBJECT: USE AGREEMENT WITH METROPCS AND A RIGHT OF ENTRY/REVENUE SHARING AGREEMENT WITH METROPCS AND MIKE RAWITSER GOLF SHOP AT SAN JOSE MUNICIPAL GOLF COURSE

RECOMMENDATION

Approval of a five-year property use agreement, and one five-year option, with MetroPCS allowing for construction, installation, maintenance and operation of a telecommunications facility at San José Municipal Golf Course and the approval of a Right of Entry/Revenue Sharing agreement with MetroPCS and Mike Rawitser Golf Shop to allow for MetroPCS's entry onto the Golf Course and for the equal sharing of the revenue generated by this installation between the City and Rawitser Golf.

CEQA: Exempt, PP04-272.

BACKGROUND

In April 2004, MetroPCS approached the City with a request to install a telecommunications facility at the San José Municipal Golf Course. This telecommunications facility will provide more reliable public access to MetroPCS wireless communications network in the vicinity of the Golf Course.

In November 2002, a Use Agreement and Right of Entry/Revenue Share Agreement with Cingular Wireless and Mike Rawitser Golf Shop was approved by the City Council. The agreements being executed for this project are the same agreements used for the Cingular Wireless project. Both the existing agreement with Cingular Wireless and the proposed

agreement with MetroPCS are non-exclusive, thus allowing additional cell phone providers the opportunity for placing telecommunications equipment at the San José Municipal Golf Course. Planning Permit Adjustment File AD04-507 was approved 5/25/04 to meet Title 20 requirements.

ANALYSIS

Staff has negotiated a five-year use agreement with one five-year option with MetroPCS for the right to use an existing wooden pole located on the Golf Course driving range and the right to perform maintenance of their equipment. MetroPCS will pay \$21,285 in base rent the first year for the use of the pole and equipment area. This amount will increase annually by the greater of four percent or increases in the Consumer Price Index All Urban Consumers for the San Francisco-Oakland Metropolitan Area. The rate structure was approved by Council action, Council Policy 7-10, on October 8, 1996.

In addition, staff has negotiated a three-party Right of Entry/Revenue Sharing agreement between Mike Rawitser Golf Shop, MetroPCS and the City. The right of entry permits MetroPCS access to the site to install and maintain its telecommunications equipment. Because Rawitser has an existing property management agreement for this site, City staff has also negotiated a provision with Rawitser whereby MetroPCS will remit 50 percent of the base rent to Mike Rawitser Golf Shop for use of this site under the above-mentioned five-year Use Agreement and any option period. This is consistent with Council's previous approval for placement of telecommunications equipment at the San José Municipal Golf Course.

PUBLIC OUTREACH

Not applicable.

COORDINATION

This project has been coordinated with the Department of Planning, Building and Code Enforcement, the City Manager's Budget Office and Mike Rawitser Golf Shop. The City Attorney's Office has reviewed the Use Agreement and Right of Entry/Revenue Sharing agreement and approved as to form.

COST IMPLICATIONS

The City's share of the total rent over the five-year term of this agreement shall be no less than \$57,643.22.

HONORABLE MAYOR AND CITY COUNCIL

11-01-04

Subject: Use Agreement with MetroPCS and a Right Of Entry/Revenue Sharing Agreement with MetroPCS
and Mike Rawitser Golf Shop at San José Municipal Golf Course

Page 3

CEQA

Exempt, PP04-272.



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JD:hla
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