



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Kim Walesh

**SUBJECT:** HP Pavilion at San Jose  
Advertising Plan

**DATE:** August 22, 2011

Approved

Date

8/31/11

**COUNCIL DISTRICT:** 3  
**SNI AREA:** N/A

## RECOMMENDATION

Approve the recommendation of the Arena Authority to accept the HP Pavilion Advertising Plan as submitted by San Jose Arena Management LLP with upgrades to electronic signage along the Pavilion public concourse and hockey dasher boards.

## OUTCOME

The outcome of Council approval of the amendments to the advertising plan will be the implementation of an advertising plan that complies with the process set forth in the Amended and Restated San Jose Arena Management Agreement.

## BACKGROUND

Per the terms of the Arena Management Agreement, San Jose Arena Management LLP ("SJAM") is obligated to submit an advertising plan to the City for approval at least every two years. *Attachment 8 Arena Advertising* of the Arena Management Agreement specifies the areas and types of advertising allowed in and around the HP Pavilion ("Pavilion"). The current Advertising Plan was approved by Council in November 2010.

For the interior of the Pavilion, there are specific conditions for advertising in the concourse area as well as selected areas in the Pavilion seating and hockey playing areas, which includes the scoreboard; hockey dasher boards; balcony fascia; and penalty box. For the Pavilion public concourse, advertising is permitted from 32 suspended pendant signs; concession stand fascias and back walls; frames around television monitors; signs on portable stands; and proprietary signs used to identify the owner or operator of devices such as automated teller machines and telephones. Under *Attachment 8 Arena Advertising*, SJAM may submit requests to the City for alternative standards and systems to be used in the concourse.

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The proposed amendments to the advertising plan continue to support the City and SJAM's strong public interest in the visual appearance and design aesthetics of the Pavilion. As such, the advertising plan is consistent with the "Applicable Standard" used for the Pavilion as defined in the Arena Management Agreement. The "Applicable Standard" is defined as "a standard of performance, operation and maintenance equal to or exceeding those generally applicable to contemporary major arenas in the United States at which NBA or NHL games are played."

### ANALYSIS

On June 1, 2011, Mr. Rich Sotelo, SJAM's Vice President of Building Operations, presented components to the proposed advertising plan to the Arena Authority's Facilities Committee. During his presentation, Mr. Sotelo reported that SJAM would like to modify the Pavilion advertising plan in two areas to accommodate electronic programmable signage and to have these new systems in place by the beginning of the 2011-12 NHL season. Below are the details to the new systems:

- (1) Upgrade the sixteen (16) pendants (total of thirty-two display panels) from static, backlit signs to new LCD (liquid crystal display) pendants. More specifically, each double-sided pendant would include six new 46-inch LCD displays (for a total of 192 for all sixteen pendants) and would be consistent with the current pendant display size (slightly smaller). Each sign will have the ability to show live game action, advertising, or a combination of both.
- (2) Upgrade two (2) hockey dasher boards with LED (light-emitting diode) screens to replace two current static advertising dasher boards. The National Hockey League is encouraging NHL teams to use LED display technology along the hockey dasher boards as an upgrade in advertising systems employed at NHL arenas. The LED display dasher boards would include two 6mm display panels, approximately 2'-6" x 9', as allowed by NHL guidelines.

At the June 22, 2011, Arena Authority Board of Directors meeting, the Arena Authority Board approved the Advertising Plan as submitted, but expressed some concern about advertising of distilled spirits on the proposed electronic upgrades. The Board asked staff to provide further information on SJAM's intent with regard to distilled spirits advertising at the August 2011 Arena Authority Board meeting. On July 29, 2011, in preparation of the August Arena Authority Board meeting, members of the Arena Authority's Facilities Committee met with Rich Sotelo to further address the issue of distilled spirits advertising per the guidelines included in the recently revised *Attachment 11 Statement on Smoking and Alcohol* from the Arena Management Agreement.

For reference, in November 2010, Council approved the fourth amendment to the Arena Management Agreement relating to advertising and distilled spirits advertising in the Pavilion. Listed below are the updated provisions to *Attachment 11 Statement on Smoking and Alcohol* from the Amended Arena Management Agreement that were approved by Council:

- (1) The number of such distilled spirits advertisers shall not exceed six at any one time.
- (2) Advertising signage must be consistent with the approved Advertising Plan as specified in Attachment 8 of this Agreement. The Arena Authority shall review these restrictions on distilled spirits advertising on a biennial basis in concert with the review of the Advertising Plan, based on such review, may recommend in the Advertising Plan locational restrictions on distilled spirits advertising in the concourse, provided however, that no such prohibition will affect any contracts then in effect.
- (3) No such distilled spirits advertising shall be placed on Manager or Sharks owned or operated vehicles, including, but not limited to, service/parking attendant carts, team mascot promotional vehicles, and ice surfacing machines.
- (4) All such distilled spirits advertising must conform to the applicable industry standards.
- (5) All such distilled spirits advertising must either deliver a social responsibility message (i.e., don't drink and drive) or feature only the brand name and/or logo. No such distilled spirits advertising may contain call-to-action consumption messaging or product images.

Additionally, the provisions include no fixed advertising on the exterior of the Pavilion and the Pavilion Manager shall refrain from advertising products in the concourse and other public areas of the Pavilion which may be inappropriate for general public viewing. These restrictions on distilled spirits advertising apply to the in-ice logos, player's benches, dasher boards, penalty boxes, and concourse pendant and jumbo signs.

In using Council approved guidelines listed above, the Arena Authority Facilities Committee continues to support the Board's recommendation to approve the Advertising Plan as it relates to the upgraded LED and LCD screens. For distilled spirits advertising, the Facilities Committee and the Arena Authority Board will continue to monitor components to the distilled spirits regulations and engage SJAM at the appropriate time when there is interest for distilled spirits to be advertised through LCD or LED technology. (SJAM currently has no distilled spirits advertisers contracted to use the proposed LCD or LED technology.)

In discussing the issue at its June meeting, the Arena Authority Board noted that the new LCD and LED technology allows SJAM to display or remove advertising depending on Pavilion events. For example, for a family show, SJAM will now have the ability to control what type of advertising can be shown during an event like this and can remove any advertising for beer, wine, or distilled spirits while family shows are being held at the Pavilion. With the current static pendant and dasher board signs, this could not be accomplished. This type of activity supports the Council approved regulations relating to "locational restrictions."

### **EVALUATION AND FOLLOW-UP**

Per the terms of the Arena Management Agreement, HP Pavilion Management is required to provide details of an advertising plan every two years to the City for consideration. As previously referenced, HP Pavilion Management is obligated to follow advertising guidelines as specified in *Attachment 8 Arena Advertising* of the San Jose Arena Management Agreement. From time to time the Arena Authority's Facilities Committee and subsequently the Arena

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Authority Board of Directors, reviews components to the advertising plan as well as any potential modifications submitted for consideration by HP Pavilion Management.

The Arena Authority will be providing a comprehensive review of the distilled spirits advertising program in the fall of 2011 and will report back to the City Manager on the status of the program. Please also note that the City, through its current agreement with SJAM, does receive a portion of revenue generated from the advertising of distilled spirits in the Pavilion. For FY 2010-11, the City received \$20,000.

### **PUBLIC OUTREACH**

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This action does not meet any of the criteria above. This memorandum will be posted to the City's website for the September 13, 2011, Council agenda.

### **COORDINATION**

At the June 22, 2011, Arena Authority Board of Directors meeting, the Board reviewed and approved the advertising plan as submitted by HP Pavilion Management. The Authority Board advised staff to submit the plan to the City Manager's Office for consideration and subsequently forward the recommendation to the Mayor and City Council for legislative approval.

### **COST SUMMARY/IMPLICATIONS**

As these are Pavilion Manager improvements, there are no costs to the City of San Jose associated with the upgrades proposed in the Pavilion Advertising Plan.

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**CEQA**

Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment.

/S/

Kim Walesh

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Chief Strategist

For questions please contact Chris Morrissey, Executive Director of the San Jose Arena Authority, at (408) 977-4783 or at [morrissey@sjaa.com](mailto:morrissey@sjaa.com).