



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Kay Winer

**SUBJECT: ROTARY CLUB OF SAN JOSE
SIGN LICENSE AGREEMENT**

DATE: 06-05-06

Approved

Date 06/05/06

COUNCIL DISTRICT: District 3

RECOMMENDATION

Approval of a Sign License Agreement Between the City of San José and Rotary Club of San José for the purpose of the fabrication, installation and maintenance of two Rotary emblems on the exterior of the 4th Street Garage and Banquet Facility at no cost to the City and which has a term that runs concurrent with the Amended and Restated Banquet Facility Agreement that expires in 2038.

BACKGROUND

On May 13, 2003, the City Council approved the “Amended and Restated Agreement to Contribute Funds” with the Rotary Club of San José (“Club”).

The agreement related to the use of the 4th Street Garage and Banquet Facility by the Rotary Club of San José and detailed the:

- Rotary club of San José’s contribution of \$500,000 to the Redevelopment Agency of the City of San José;
- Creation of a \$500,000 Rotary endowment obligation to disburse funds over a number of years to community organizations or projects serving Redevelopment Project areas;
- Agreement that “Rotary” will not be in the facility name unless or until the City Council attempts to name the facility after an individual or organization, at which time Rotary will be able to secure the Rotary name with a \$1000 contribution; and to
- Locate two Rotary emblems on the exterior of the facility subject to City approval and any sign code ordinance amendments that may be necessary.

The City and the Redevelopment Agency of the City (the “Agency”) collaborated on the development of a 750-space parking garage located at 88 South Fourth Street with a Banquet Facility on the seventh floor or top of the parking garage. Prior to beginning construction of the Banquet Facility, the Agency and Club entered into an agreement entitled “Agreement to

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Contribute Funds” whereby the Club agreed to contribute towards the construction of the Banquet Facility to ensure that it would be built and made available to the general public, including the Club and other community organizations.

On June 22, 1999, the Club entered into an agreement with the City entitled “Banquet Facility Agreement”. On May 13, 2003 the City Council approved an “Amended and Restated Banquet Facility Agreement Between the City of San José and Rotary Club of San José.” These agreements related to the terms and conditions for using the banquet facilities for luncheon meetings and other occasions.

The Club at this time is ready to proceed with implementing 2.4 Rotary Emblem, of the “Amended and Restated Agreement to Contribute Funds.” Item 2.4 states, “Club shall be entitled to place two Rotary emblem illuminated signs on the Parking Structure, subject to the City’s sign ordinance, if and when the City is able to ascertain that in so doing the signs will not cause the currently existing bonds which were issued to construct the Banquet Facility (or any subsequent refunding bonds) to lose their tax exempt status. At such time as the signs are installed, the cost of fabrication and installation of the signs shall be paid by the Club. The City shall have the right to approve the final design, size, and location of the signs.”

The proposed “Sign License Agreement Between the City of San José and Rotary Club of San José” details the duration of the agreement, condition and use of the sign area, maintenance, repair and replacement of the signs, obligation to provide for the cost of required utilities, right of entry necessary for any and all work, requirements for development of plans for design and installation review, approval and inspections, permits, insurance, indemnification, termination and other details negotiated between the City and Club. The Sign License Agreement will run concurrent with the Amended and Restated Banquet Facility Agreement that expires in May 2038.

Once the permits are issued which is expected to occur in July, Rotary will implement a 90 to 120 day schedule that will include sign fabrication and installation with the project expected to be completed no later than the end of October 2006.

ANALYSIS

Approval of the proposed agreement will allow the implementation of the plans to install the two Rotary emblems on the 4th Street Garage and Banquet Facility.

On September 22, 2005, the Department of Planning, Building and Code Enforcement approved a Development Permit Adjustment for a Skyline Sign for the 4th Street Parking Garage.

The Development Permit Adjustment noted the approval was subject to the following conditions:

”Aluminum materials for the saddle straps and for the exterior of the box sign shall match the material, color and finish of the building elements to which they are attached.

Power shall be provided to the sign by running a cord along the top of the vertical element where the signage is attached. The power cord shall run behind the saddle straps to reach the sign, or if this is not possible, the cord shall be run down from the top adjacent to the saddle straps in the most discrete fashion possible. The cord color shall match that of the building.

If any part of the sign delaminates, the entire sign shall be replaced.”

The Garage Property was financed in large part with the proceeds of tax-exempt bonds, the interest on which is intended to be excluded from gross income for federal income tax purposes. If required by City’s bond counsel, Club agrees to make modifications to the Sign License Agreement in order to preserve the tax-exempt status of the bonds. Club has agreed that City has the right to terminate the Sign License Agreement if in the opinion of bond counsel, doing so is necessary in order to preserve the tax-exempt status of the bonds. If City terminates the Sign License Agreement pursuant to this provision, City agrees to remove the Rotary Wheels at City’s cost and to reimburse Club its undepreciated cost of fabrication and installation, which shall be Club’s sole remedy against the City.

OUTCOME

The project to install the two Rotary emblem illuminated signs on the 4th Street Garage and Banquet Facility will be completed along with the provisions for any on-going costs and maintenance to be assumed by Club.

PUBLIC OUTREACH

This process has involved the community through the Rotary Club participation and the permitting process.

COORDINATION

This memorandum, the proposed agreement and the project development have been coordinated with the City Manager’s Office, City Attorney’s Office, General Services, Planning, Building and Code Enforcement, Department of Public Works, Department of Transportation, Risk Management and the Rotary Club of San José.

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COST IMPLICATIONS

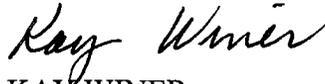
The City will not incur additional operating or maintenance costs due to the installation of this sign.

BUDGET REFERENCE

Not applicable.

CEQA

EIR Resolution No. 68839, File Nos. CP98-054 and AD04-450



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