



**Date:** November 27, 2017  
**To:** Ad-Hoc Stadium Audit Committee  
**From:** Executive Director for the Stadium Authority  
**Subject:** Status of Harvey M. Rose Associates' Measure J Compliance Audit  
Recommendations as of November 22, 2017

### EXECUTIVE SUMMARY

On June 28, 2016, the Santa Clara Stadium Authority Board selected Harvey M. Rose Associates, LLC to perform a comprehensive Measure J audit of Stadium Authority finances. The audit covered the two-year period beginning April 1, 2014 through March 31, 2016 (Stadium Authority Fiscal Years of 2014-15 and 2015-16).

The audit report was completed and presented to the Stadium Authority Board on August 24, 2017. The report included thirty-seven (37) recommendations to improve Stadium Authority and City processes. In preparing the audit recommendations, Harvey M. Rose consultant's expressed that the absence of access to non-NFL related documents resulted in the inability to complete the entire scope of their work.

Staff has prepared a standard audit recommendation tracking matrix listing the audit recommendations and the standard designation for the status of the recommendation (e.g., Complete, Partially Complete, or Not Implemented) and action taken so far. This matrix will be used as a tool to demonstrate staff's progress going forward and will continue to be presented to the Ad-Hoc Stadium Audit Committee at future meetings.

In preparing the matrix, staff analyzed the recommendations to determine if they should be categorized as business process improvements, risk management, financial disclosures, or management corrective action. Using this methodology, staff then determined the current status of the recommendations. The following table reflects staff's progress towards implementing the thirty-seven audit recommendations:

Status	Progress (# of Audit Recommendations)
Complete	10
Partially Complete	14
Not Implemented	13
<b>TOTAL</b>	<b>37</b>

### WORK PLAN PROPOSAL FOR THE AD HOC COMMITTEE

City staff reviewed the audit recommendations and is providing a framework for addressing the many audit recommendations over time. With the number of items requiring follow-up on Stadium Authority directives, staff thought that a good start to these monthly Ad Hoc Committee meetings would be to set a short-term horizon to address the audit recommendations that are most timely

for key upcoming milestones. The proposal provides about a four month horizon of the audit recommendations that we plan to address, recognizing that timing and prioritization is very important to maximize budget development, manage resources/capacity, and address other key operational matters.

Key to this framework is to complete those recommendations that are urgent, could be implemented with ease, and/or without significant dedication of time/resources. Next steps for moving forward are proposed as follows:

- **Budget Development (ETA = March 2018)** - Staff has prioritized audit recommendations that have an impact on budget development and proposes that the Ad Hoc Committee provide input on them, as well. To that end, the following audit recommendations are those that we should focus on at our November and January meeting, so that we can schedule closed session discussions, Stadium Authority Board agenda items in December and/or January. Additionally, this proposal allows for staff to follow up with ManCo at our monthly meetings in December and January. Those recommendations are: 1A, 1D, 1G, 1H, 1K, 1M, 1R, 2B, and 2H. Those audit recommendations are highlighted in the attachment.
- **Marketing Plan (ETA= February/March 2018)** - Staff would like to bring this matter to a higher level of agreement focusing on Authority policies (i.e.. goals and outcomes) and present current status in January, so that any required changes could be integrated into budget development for the upcoming fiscal year.
- **Additional Due Diligence (ETA = July 2018)** - As discussed in this report, Harvey Rose was not able to audit all relevant documents as they were not available during the audit work without signing a non-disclosure agreement (NDA), nor were the documents in possession of the Stadium Authority. In the meantime, ManCo has provided these documents to the Stadium Authority. Staff is reviewing the documents for completeness as they were previously reviewed at ManCo offices. Discussion with Harvey Rose representatives conclude that the soonest the firm can support any audit follow-up work would be in late June 2018. Therefore, upon discussion with ManCo, staff may issue a Request for Proposal (RFP) for a new contract that permits the completion of any outstanding audit work that was not completed during the first audit. The continuation of the audit will require coordination for budget review with ManCo, Stadium Authority Board action (possibly in January or February), release of an RFP, evaluation of proposal(s), and award of a new contract.

As always, if there is an opportunity or capacity to advance other audit recommendations, we will certainly do so; but, staff would like to agree on a short term work plan on how our work and time is best used so that we are responsive and accountable to the Board.

#### **ADVANTAGES AND DISADVANTAGES OF ISSUE**

The status of the audit recommendations will provide an update on staff's progress towards implementing and improving current processes and procedures. There are no identified disadvantages.

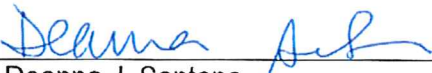
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**ECONOMIC/FISCAL IMPACT**

There is no fiscal impact to the Stadium Authority with this status update. However, staff is currently analyzing the audit data to determine the reimbursement amount that the Stadium Authority will owe the City's General Fund.

**RECOMMENDATION**

That the Stadium Authority Board Receive the Status of Harvey M. Rose Associates' Measure J Compliance Audit Recommendations as of November 22, 2017.



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Deanna J. Santana  
Executive Director for Stadium Authority

# STATUS OF HARVEY ROSE ASSOCIATES AUDIT RECOMMENDATIONS

## 1. COMPLIANCE WITH STADIUM AUTHORITY AGREEMENTS

Audit Recommendation	Current Status	Action Taken
<p><b>1.A</b> The Stadium Authority Board should direct the Executive Director to request the public safety costs threshold be adjusted through negotiations with StadCo to reflect actual costs to the City for providing public safety services for NFL events.</p>	<p>Partially Complete</p>	<p>A letter was issued to StadCo on February 3, 2017 to formally request a meeting for the purpose of engaging in good faith negotiations with respect to an increase in the Public Safety Cost Threshold.</p>
<p><b>1.B</b> The Stadium Authority Board should direct the Executive Director and Stadium Authority counsel to notify ManCo that the absence of five year capital expenditure plans for FYs 2014-15 and 2015-16 was a breach of Section 10.3 of the Stadium Lease and that ManCo is required to provide such plans under the lease for the current and all future Stadium Authority fiscal years.</p>	<p>Complete</p>	<p>ManCo provided a five-year capital expenditure plan in February 2017 for the Fiscal Years 2017-18 thru 2021-22. This plan was incorporated into the Stadium Authority's Adopted Fiscal Year 2017-18 SCSA Budget. ManCo has been notified that they are to provide a five year capital expenditure plan going forward.</p>
<p><b>1.C</b> The Stadium Authority Board should direct the Executive Director to provide a copy of the Operation and Maintenance Plan to the Stadium Authority Board for review, in closed session if deemed necessary for public safety reasons by the Stadium Authority counsel.</p>	<p>Complete</p>	<p>ManCo provided a redacted version of the Operations and Maintenance Annual Operating Plan to staff in February 2017 during the 2017-18 budget process. ManCo has been notified that they are to provide this plan annually.</p>
<p><b>1.D</b> The Stadium Authority Board should require that Stadium Authority staff and ManCo prepare an annual public safety budget in conjunction with the City's public safety departments detailing both NFL and non-NFL event public safety costs for submission to and adoption by the Board.</p>	<p>Partially Complete</p>	<p>ManCo provided a public safety budget to staff in February 2017 during the 2017-18 budget process.</p>

# STATUS OF HARVEY ROSE ASSOCIATES AUDIT RECOMMENDATIONS

Audit Recommendation	Current Status	Action Taken
<p><b>1.E</b> The Stadium Authority Board should direct the Executive Director to renegotiate provisions of the Stadium Lease so that the Stadium Authority receives a share of any concessionaire revenue that exceeds the minimum guaranteed amount from non-NFL events.</p>	Complete	<p>The Stadium Authority does receive revenue in excess of minimum. <b>Stadium Lease: 7.3.2 Concession Revenue.</b> All Concession Revenue shall be Tenant Revenue if received from (a) Concession Operations within Tenant's Exclusive Facilities, (b) Concession Operations during the Tenant Season (excluding in connection with Stadium Authority Events during the Tenant Season), or (c) Concession Operations in connection with NFL Events during the Stadium Authority Season (collectively, "Tenant Concession Revenue"); and, as shall be provided in the Concession Agreements, shall be paid to Tenant by the Concessionaires either directly or through the Stadium Manager. All Concession Revenue shall be Stadium Authority Revenue if received from (i) Concession Operations during the Stadium Authority Season (excluding those within Tenant's Exclusive Facilities and Concession Operations in connection with NFL Events) or (ii) Concession Operations in connection with Stadium Authority Events during the Tenant Season (collectively, "Stadium Authority Concession Revenue"); and, as shall be provided in the Concession Agreements, shall be paid to the Stadium Authority by the Concessionaires either directly or through the Stadium Manager. In addition, if any Concession Agreement requires a guaranteed minimum payment by the Concessionaire and, for any Lease Year, the amount of such guaranteed minimum payment exceeds the amount of the payment otherwise required to be made by such Concessionaire under the Concession Agreement, then the amount of such excess shall constitute Tenant Revenue. Without limiting the foregoing provisions of this Paragraph 7.3.2, Stadium Authority Concession Revenue shall not include any of the following, which shall constitute Tenant Revenue: (a) revenues from retail activities associated with the Stadium Commercial Areas; (b) Tenant Service Revenue; (c) Tenant Telecommunications Revenue; or (d) NFL Advertising and Sponsorship Revenue.</p>
<p><b>1.F</b> The Stadium Authority Board should direct the Executive Director to notify StadCo that a formal consolidated draft parking plan must be produced and delivered to the Community Development Department and to the Board for review and approval as required under the Stadium Lease.</p>	Not Implemented	
<p><b>1.G</b> The Stadium Authority Board should direct the Chief of Police to present the public safety plan to the Stadium Authority Board for review and formal approval (in closed session if deemed necessary by Stadium Authority counsel) and to present any updates to the public safety plan to the Stadium Authority Board for review and documented adoption.</p>	Partially Complete	<p>Staff will bring policy recommendations regarding the public safety plan to Board (i.e.: overtime), which will inform the administrative Public Safety Plan. Further, in light of recent national incidents and heightened focus on large crowds, it should be noted that the Plan is dynamic and will require adjustments to respond to various public safety conditions.</p>
<p><b>1.H</b> The Stadium Authority Board should direct the Executive Director to formally notify StadCo that the total cost for stadium insurance must be disclosed in the shared stadium expenses budget pursuant to Section 4.6 of the Management Agreement and, based on the disclosure, consider proposing to StadCo an amendment to the Stadium Lease to remove the provision that the Stadium Authority pay a fixed amount of insurance costs, with StadCo paying an unknown amount.</p>	Partially Complete	<p>Staff is currently in discussions with StadCo to determine the total costs for stadium insurance.</p>

## STATUS OF HARVEY ROSE ASSOCIATES AUDIT RECOMMENDATIONS

Audit Recommendation	Current Status	Action Taken
<p><b>1.J</b> The Stadium Authority Board should direct the Executive Director to formally notify StadCo and ManCo that ManCo is in breach of the Management Agreement because it did not furnish Annual Statements of Stadium Operations for FYs 2014-15 and 2015-16, and to require that such statements be provided for those years, for FY 2016-17 and each year thereafter.</p>	Not Implemented	
<p><b>1.J</b> The Stadium Authority Board should direct the Executive Director to send formal notification to ManCo and StadCo that ManCo was in apparent breach of the Stadium Lease requirement that a one year budget and five year projection of shared Stadium expenses be provided on an annual basis to the Stadium Authority and demanding that ManCo provide such budgets and projections for the current and all future years. The Executive Director should be directed to provide a written response to ManCo each year on the draft budget submitted by ManCo.</p>	Complete	ManCo provided a one year budget and five year projection of shared stadium expenses to staff in February 2017 during the 2017-18 budget process. ManCo has been notified that they are to provide this plan annually.
<p><b>1.K</b> The Stadium Authority Board should direct the Executive Director and Treasurer to work with ManCo to require that the annual operating budget and quarterly financial status reports disclose sufficient information to ensure that staff and the Board can determine whether the Stadium Authority is adhering to Stadium Lease requirements contained in Article 14 regarding the allocation of excess Stadium Authority revenue.</p>	Not Implemented	
<p><b>1.L</b> The Stadium Authority Board should direct the Executive Director to notify ManCo that previous annual marketing plans were inadequate as they did not set forth reasonably detailed plans to develop, implement, and monitor marketing, booking, advertising, and promotion of non-NFL activities. The Board should further direct the Executive Director to notify ManCo that future marketing plans must include such details and be reviewed for sufficient detail by the Executive Director before being presented to the Board.</p>	Partially Complete	ManCo provided a Sales and Marketing Plan to staff in February 2017 during the 2017-18 budget process.
<p><b>1.M</b> The Stadium Authority Board should direct the Executive Director to confer with the Finance Director/Treasurer to determine what financial information would be necessary to assess non-NFL event financial performance, including incentive payments to ManCo, and then notify ManCo regarding what additional information will be required on an ongoing basis.</p>	Partially Complete	ManCo has transferred financial documents for non-NFL events to the Stadium Authority and a due diligence review is underway to ensure that we have all documents.

# STATUS OF HARVEY ROSE ASSOCIATES AUDIT RECOMMENDATIONS

Audit Recommendation	Current Status	Action Taken
<p>1.N The Stadium Authority Board should direct the Executive Director to notify ManCo that it is in breach of Management Agreement Section 3.3, which requires that written revenue or other reports relating to non-NFL events be provided to the Stadium Authority within 45 days of each non-NFL event with attendance projected to exceed \$25,000. The Stadium Authority Board should further direct the Executive Director to demand that ManCo provide such written revenue reports according to specifications to be detailed by the Treasurer for all future non-NFL events with attendance projected to exceed \$25,000.</p>	<p>Partially Complete</p>	<p>ManCo has transferred financial documents for non-NFL events to the Stadium Authority and a due diligence review is underway to ensure that we have all documents.</p>
<p>1.O The Stadium Authority Board should direct the Executive Director and Stadium Authority counsel to request an amendment to the Management Agreement that would require formal and/or informal bidding procedures for any transactions with ManCo affiliates or for transactions above a designated threshold to ensure that goods and services received from an affiliate of ManCo are competitively priced.</p>	<p>Not Implemented</p>	<p>Staff has notified ManCo that we want to be part of this process going forward.</p>
<p>1.P The Stadium Authority Board should direct the Executive Director to direct ManCo to provide quarterly written reports to the Stadium Authority, to be maintained as permanent Stadium Authority records, detailing parking lot information as required in the first amendment to the management agreement.</p>	<p>Partially Complete</p>	<p>The financial details for non-NFL event parking are available for review and audit at ManCo offices. Staff reviews and audits the details during the course of each fiscal year. Parking information is included in the Stadium Authority Quarterly Status Reports but is not broken down by specific lots.</p>
<p>1.Q The Stadium Authority Board should direct the Executive Director to require that all meetings, including the date and purpose of the meetings, between Stadium Authority staff and ManCo be documented and reported quarterly or annually to the Stadium Authority Board.</p>	<p>Complete</p>	<p>Beginning with the Stadium Authority meeting in January 2018, the Executive Director will issue a quarterly report, as directed, for the period October - December 2017; however, it is worth noting that this recommendation is met by including this requested information in the Weekly letter provided to the City Council and on the City Manager's Blog located on the City's website.</p>
<p>1.R The Stadium Authority Board should direct the Executive Director to establish procedures to ensure that all existing plans, reports, and budget documents required to be provided by ManCo are provided to the Stadium Authority in the manner required by existing agreements. The Stadium Authority Board should further direct the Executive Director to report annually on the status (receipt, review, and approval status) of each required plan, report, and budget document.</p>	<p>Partially Complete</p>	<p>Staff has prepared a schedule to track the deliverables and will begin implementing this requirement immediately. If there are challenges with obtaining the required information, staff will surface the issues at the Board level.</p>

# STATUS OF HARVEY ROSE ASSOCIATES AUDIT RECOMMENDATIONS

Audit Recommendation	Current Status	Action Taken
<b>2. STADIUM AUTHORITY REVENUES AND EXPENSES</b>		
<p><b>2.A</b> The Stadium Authority Board should request that ManCo provide the relevant reports and documentation that back up the NFL ticket surcharge summary report in order to retain permanent verification of the accuracy of the surcharge calculated by ManCo.</p>	Partially Complete	<p>StadCo has agreed to provide this information to Stadium Authority staff for review. Staff will begin its due diligence process to verify the accuracy of the calculated surcharge and deem this recommendation complete when this is regular practice and satisfaction of process.</p>
<p><b>2.B</b> The Stadium Authority Board should negotiate with ManCo to establish a level of detail regarding non-NFL event revenue and expenses that can be provided in City reports, public documents, and permanent records to be kept by the Stadium Authority without compromising ManCo's ability to book and negotiate deals with non-NFL event acts and performances. The Board should direct staff to include this level of detail for both budgeted and actual revenues and expenses in the annual proposed budget and the quarterly financial status reports to allow the Board and public to monitor the performance of non-NFL events and ManCo's performance in managing and executing the events.</p>	Not Implemented	
<p><b>2.C</b> The Stadium Authority Board should require that a detailed breakdown of performance rent calculations and payments to the City of Santa Clara be included in the budget and quarterly financial status reports using additional information provided by ManCo.</p>	Partially Complete	<p>Performance Rent calculation was included in the Stadium Authority's Quarterly Financial Report that was presented to the Board on November 21, 2017</p>
<p><b>2.D</b> The Stadium Authority Board should require that ManCo provide reports and documentation that can be kept in Stadium Authority records, consistent with confidentiality provisions in the agreements that back up the non-NFL ticket surcharge summary report in order to verify that the surcharge calculated by ManCo is accurate.</p>	Partially Complete	<p>ManCo has transferred financial documents for non-NFL events to the Stadium Authority and a due diligence review is underway to ensure that we have the required documents. This recommendation will be deemed complete upon the due diligence review.</p>
<p><b>2.E</b> The Stadium Authority Board should require that a comprehensive accounting of Debt Service Fund transactions, including beginning and year-end balances, budget vs. actual revenues and expenditures by specific line item, and details on all transfers in and out of the fund, be presented in Stadium Authority budgets and financial status reports.</p>	Complete	<p>This information has been incorporated in the Stadium Authority's 2017-18 Budget and current Quarterly Financial Status Reports.</p>
<p><b>2.F</b> The Stadium Authority Board should require that Discretionary Fund revenues, expenses, budget-to-actual comparisons, and account balances be reported in Stadium Authority budgetary documents separately from the Operating Fund.</p>	Complete	<p>The discretionary fund expenses and budget-to-actual comparisons have been reported to the SCSA Board since the YE 3/31/15 Stadium Authority Financial Status Report that was presented on 8/18/15. The revenues that fund the discretionary fund and the account balance has been reported to the SCSA Board since the QE 6/30/16 Stadium Authority Financial Status Report that was presented on 8/23/16.</p>



## STATUS OF HARVEY ROSE ASSOCIATES AUDIT RECOMMENDATIONS

Audit Recommendation	Current Status	Action Taken
2.G The Stadium Authority Board should require that ManCo prepare the five year Shared Expense Budget, per the requirements in the Stadium Management Agreement, and the Board should direct the Executive Director to document receipt of the Shared Expense Budget, and provide written comments to ManCo in response to the proposed expenses.	Complete	ManCo provided a one year budget and five year projection of shared stadium expenses to staff in February 2017 during the 2017-18 budget process. ManCo has been notified that they are to provide this annually going forward. (this recommendation seems to be a repeat of recommendation 1.J)
2.H The Stadium Authority Board, StadCo, and ManCo should amend the Management Agreement or separately establish binding policies that do not allow retroactive increases in authorized expenditures such as Stadium Manager expenses, and should require that detailed explanations be provided to the Board when additional funding is requested midyear in advance of such expenses being incurred.	Not Implemented	
2.I The Stadium Authority should require that ManCo provide independently prepared reports and documentation to back up the number of NFL tickets sold for each fiscal year in order to verify that the senior/youth fee calculated by ManCo is accurate and to have a set of permanent records documenting the validity of this revenue.	Not Implemented	
2.J The Stadium Authority Board and the City of Santa Clara should clarify when the City Purchasing Authority procurement thresholds (Santa Clara Municipal Code Chapter 2.105.070 et seq.) apply and when the Stadium Authority Procurement Policy thresholds (Santa Clara Municipal Code Chapter 17.30) apply.	Complete	The current practice is to use the City's more restrictive Purchasing Authority threshold if the City is purchasing items on behalf of the Stadium Authority.
2.K The Stadium Authority Board should direct staff to prepare policies and procedures pertaining to all purchases made on behalf of the Stadium Authority to require a level of specificity in costs and services in all vendor contracts, that all invoices bill using the rates or unit costs specified in their contracts, and that the invoices and contracts be periodically reviewed by Stadium Authority staff.	Not Implemented	
2.L The Stadium Authority Board should require that budgets and actual expenditures for the Stadium construction budget be presented alongside the Stadium Authority Operating Budget to provide an accurate overall picture of purchases for all materials, services, and supplies for the Stadium.	Complete	The Capital Improvement Projects (CIP) budget is reported in the quarterly Stadium Authority Financial Status Report and as part of the adopted Budget.

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Audit Recommendation	Current Status	Action Taken
<p>2.M The Stadium Authority Board should direct staff to report actual revenues and expenditures on an accrual basis in budgetary documents so that all amounts presented reflect actual results for the year, regardless of the timing of revenue receipt or expenses incurred.</p>	Not Implemented	
<b>3. UNCLAIMED, UNREIMBURSED CITY STAFF COSTS</b>		
<p>3.A The Stadium Authority Board should request that staff prepare plans for reimbursement to the City's General Fund for unreimbursed staff costs from the appropriate source: Discretionary Fund, ManCo, or, to the extent funds are available and appropriate, the Construction Fund.</p>	Not Implemented	
<p>3.B The Stadium Authority Board should request that staff have ManCo prepare an annual comprehensive Public Safety budget, as required by the Stadium Lease, to include all components of Stadium public safety costs and reimbursement, including NFL public safety costs paid for directly by ManCo on behalf of StadCo, by the Stadium Authority from the Discretionary Fund, and any costs paid using other funds such as the Construction Fund.</p>	Partially Complete	ManCo provided a public safety budget to staff in February 2017 during the 2017-18 budget process.
<p>3.C The Stadium Authority Board should direct staff to develop specific definitions of which costs should be charged as overhead and which should be direct billed. Alternatively, staff should adjust the rate applied to direct billed staff costs from the current 10 percent to a more appropriate rate, and communicate to all staff which positions or activities will be charged as overhead.</p>	Not Implemented	
<b>4. STADIUM PARKING REVENUE CONTROLS</b>		
<p>4.A The Stadium Authority should exercise its right stipulated in the agreement between master parking lot operator Citypark and ManCo to periodically audit the detailed records of individual parking lots for NFL and non-NFL events.</p>	Partially Complete	ManCo recently engaged the audit firm BDO USA, LLP to perform an audit of Parking and Concessions. City staff observed and assisted with the audit process at a non-NFL event (Gold Cup on 7/26/17). Staff will receive a copy of the final audit report once it has been issued.
<p>4.B The Stadium Authority Board should direct staff to report back on the advantages and disadvantages of adding City audit rights as a condition of granting parking permits.</p>	Not Implemented	
<p>4.C The Stadium Authority Board should direct staff to require that ManCo provide a written report on matters related to off-site parking operations at their quarterly meetings, requiring that baseline information be provided in a specific format.</p>	Not Implemented	