



FORTY NINERS STADIUM MANAGEMENT COMPANY

July 3, 2024

VIA EMAIL – MayorAndCouncil@santaclara.gov

Santa Clara Stadium Authority
1500 Warburton Avenue
Santa Clara, CA 95050

Dear SCSA Board and Chair,

I write to provide you with our perspective on the latest offering from the Santa Clara Civil Grand Jury regarding Levi's Stadium, entitled "Outplayed."

The report starts with the erroneous premise that the City of Santa Clara negotiated a bad deal, specifically criticizing the lack of incentives to increase non-NFL event (NNE) revenue for the SCSA as the "most important" issue to be addressed. As outlined in this letter, the initial premise of the report is incorrect, and the NNE incentives are appropriate and operating as intended.

It's important to note the report acknowledges that the Measure J taxpayer protections, approved by the voters in 2010, have all been fulfilled, and that the SCSA has been a financial success. After subpoenaing thousands of documents and questioning staff for more than a hundred hours, the jury did not find a single violation of the stadium contracts or the law by the 49ers.

The City of Santa Clara Got a Good Deal

The report posits that the City of Santa Clara negotiated a bad deal but doesn't offer any comparisons to other stadium deals to support that premise. The fact is the City got a deal that other NFL cities envy: The 49ers pay the SCSA more rent than any other NFL team, the 49ers have delivered well over \$1B in revenue to the SCSA in seat licenses, ticket surcharges, and sponsorship revenues – more than any other team in the NFL, and the City's general fund has received millions of dollars from the stadium deal, all with a taxpayer investment of zero dollars. In fact, the stadium has been so successful in its first decade that the SCSA has surpassed its original financial projections on nearly all fronts. Capital reserves are filling decades ahead of schedule and stadium debt is being repaid far earlier than expected, saving nearly \$100M in interest costs.

The price to the City of Santa Clara to build Levi's Stadium was an unused overflow parking lot already encumbered by a long-term lease, and the same \$40M of

redevelopment money that was slated to be lost if it wasn't used. In return, Santa Clara received a multi-purpose stadium that is generating revenue for the general fund, jobs for residents, and revenue for the city's local businesses and hotels. That's a good deal for the city and its residents.

Given that the underlying "bad deal" premise of the report is false, the findings that rely on that premise should be disregarded.

Non-NFL Event Profits are at Record Highs

Much of the report focuses on NNE profits – money the SCSA earns from concerts, soccer matches, etc. As a preliminary matter, it's worth noting that NNE profits are a relatively small component of the SCSA's overall revenues – in the range of 3% to 10% of total revenues. We assume the report focuses on this revenue stream because critics of the 49ers have been misleading the public for years that the 49ers are stealing money from concerts despite continuous evidence to the contrary. There have been numerous audits and investigations of this topic over the years, all of which have concluded – just as this report concluded – that there is no "missing money."

There were, however, several years of NNE losses due to some college football games that didn't sell well, coupled with policies like the curfew, which hurt stadium business. But even those dynamics were contained to a few extreme outliers in the history of events booked at Levi's Stadium. As your staff has informed you repeatedly, the last two years of NNE profits were the highest in the stadium's history, totaling \$20 million to the SCSA since COVID-19. Since COVID-19, major NNE events have averaged over \$1 million in profit to the SCSA and are on track to do so again this year.

Regarding the report's concern about incentives, under the management agreement, the stadium manager receives a fixed "Base Management Fee," plus an incentive fee based on NNE net income. That incentive fee is called the "Marketing and Booking Fee" and ranges from 10%-20% of the net income above a predetermined benchmark. The report correctly points out that the stadium manager earned \$90,000 in incentive fees for FY 2022-23, but the Grand Jury states in the report that that amount is too low to "...prioritize Stadium Authority profitability over StadCo profitability associated with non-NFL events."

That finding is incorrect for several reasons.

- The report fails to cite any stadium management agreements from other venues to support its contention that the incentive fee is inadequate and, while the stadium manager would be happy to entertain an increase in its compensation, we don't believe it would have any impact on NNE profits.
- The incentives for this type of sales work (funded from NNE profits) are paid to the sales team who are responsible for bringing in the revenue, based on the financial performance of the events. The Grand Jury was unable to determine if the employees' commission structure is adequate, which is unsurprising since

neither the Grand Jury nor its experts have any experience in event sales. In contrast, the 49ers have decades of experience in this area. The program we established for the sales of SBLs for the SCSA is one of the most successful sales programs of any venue in the world and was engineered by the same executive team who created the NNE sales program. Our NNE sales team is among the best trained and best managed in the nation.

- The results speak for themselves. Following the SCSA Board decision to eliminate the Mayor's music ban and the end of the COVID-19 pandemic, NNE profits are the highest they have ever been, bringing in \$20 million in profit for the SCSA. Over the last two fiscal years, major events have averaged over \$1 million in profit for the SCSA per event and are on track to deliver the same this year.
- The report's assertion that the stadium manager should "...prioritize Stadium Authority profitability over StadCo profitability associated with non-NFL events" is out of step with both the stadium management agreement and the 2022 settlement agreement, both of which are explicit in directing the stadium manager to book events that are good for the stadium, the SCSA and the 49ers. That is exactly how we have always operated. In fact, in 2020, a county assessment board found that our work on behalf of the Stadium Authority is "fair and impartial" - a point later affirmed by a Santa Clara Superior Court and ignored by this report.
- Finally, the report spends several pages criticizing the NNE marketing plan, stating that "...the Board is aware of Stadium Authority staff's dissatisfaction with ManCo's marketing plans." The reality is that the latest marketing plan was endorsed by SCSA staff and approved by the SCSA Board at its meeting on March 12th this year.

The Mayor's Music Ban

The report also attempts to whitewash the financial damage the Mayor inflicted on the SCSA's concert business when she began imposing weeknight curfews of 10PM. The report says: "*... a comparison of non-NFL ticketed events held during both profitable and non-profitable years reflected in Figure 9 showed no significant difference in the number or ratio of events held on weeknights versus weekends.*"

Here are the facts overlooked by the report, showing the SCSA lost millions as a result of the ban.

- Prior to lifting the Mayor's Music Ban, Levi's Stadium was scheduled to host the Ed Sheeran tour in 2018. Because of the 10PM curfew, the promoter moved that show to PacBell park in San Francisco. This concert would have generated roughly \$1M for the SCSA, and employed four thousand local workers. [SF Chronicle, "[*Ed Sheeran says 'no thanks' to Levi's Stadium show: Curfew kills the buzz.*](#)" Sept. 24, 2017]

- Since the Board voted to end the music ban, the SCSA has approved four separate waivers for weeknight concerts to play beyond the 10PM curfew, and those concerts have generated \$5.3M for the SCSA. If the 10PM curfew had remained in place, the SCSA would not have received that revenue. For your awareness, the Board has granted a fifth waiver for the upcoming Rolling Stones concert on July 17, generating additional revenue that would have been lost without the curfew waiver from the Board.

As you can see, although the report claims there was “no significant” financial impact from the 10PM curfew, the data tells a much different story.

Community Promises Fulfilled

Although the report makes clear that all of the requirements of Measure J have been met, it nonetheless asserts that the 49ers have not fulfilled their promises to the community, and it provides two pieces of evidence to support this assertion – both of them are incorrect.

Community Room

The report asserts that the 49ers have failed to provide the Community Room described in the Stadium Lease. The report claims: *“The Stadium Authority has been negotiating for access to a suitable room since 2012; at one point the 49ers offered the Stadium Authority a space being used as a storage area.”*

This is incorrect. The location of the Community Room was negotiated with City Staff before stadium construction commenced in 2012, and that location is clearly indicated in Exhibit C to the Stadium Lease. The other complaints in the report about the community room are similarly incorrect:

- City Staff was fully aware of the screening and escort requirements for public access to the stadium. This has been a best practice for many years at high profile venues.
- The report then complains that the stadium is a 15-minute walk from the parking lot and there is a fee. Again, all of that was discussed with City Staff before the stadium was built.

More importantly, the report suggests that the 49ers STEAM program is somehow displacing the community room when, in fact the STEAM program, 49ers EDU, has reached 500,000 Bay Area students and educators through digital and in-person programming, with the majority coming from Title 1 designated schools and historically underserved communities.

Santa Clara Youth Soccer League

The second (and final) example the report cites regarding the 49ers “unfulfilled community promises” is also incorrect. The report states that the 49ers “...upset locals

over their failure to follow up on promises made to the Santa Clara Youth Soccer League...”. As evidence of this purported broken promise, the report includes an excerpt from the 49ers 2012 letter to the soccer league regarding our proposal to partner with the SCUSD to create new youth soccer fields at the local schools, with the 49ers paying for new fields and ongoing maintenance.

But the report conveniently omits the very next sentence of that same letter which explains the SCUSD would need to approve the use of their land for the soccer fields. Ultimately SCUSD declined that proposal, so the deal fell apart. Later, the 49ers offered to gift the City \$3M for its youth sports program – no strings attached. Mayor Gillmor declined that offer.

Closing

We remain frustrated by the continued attempts by biased critics to find fault in the work we do on behalf of the SCSA. Furthermore, these baseless accusations are resulting in the expenditure of public resources, meaning taxpayers are being stuck with the bill for repeatedly debunking the same myths over and over again.

Nonetheless, this jury ultimately came to the same conclusions other investigations have – Levi’s Stadium is a success. The new leadership of the SCSA can take pride in making meaningful changes that have improved business operations, transparency, and collaboration – as was also affirmed by this report. We remain immensely proud of the contributions the 49ers have made to this community, which include delivering \$1 billion to the Stadium Authority, and adding \$2 billion to the local economy.

Sincerely,

A handwritten signature in cursive script that reads "Larry MacNeil" followed by a vertical line and the initials "T.M."

Larry MacNeil

CC: Jovan Grogan
Glen Googins
Chuck Baker