

Santa Clara Stadium Authority

Response from Stadium Authority Regarding Stadium Manager's Request for Staffing Changes and Related Budget Amendment



August 24, 2021
Item 5D(2), RTC #21-1109

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Key Issues

- Stadium Manager is requesting new positions in the context of the Board having terminated the Management Agreement for the same reasons for which they now request more public funds/resources (e.g., procurement violations, poor track record of non-NFL events, lack of fiscal transparency, and violations of State Laws).
- If the Board takes action to approve any part of the Stadium Manager's request, SCSA must reserve all rights to recoup any and all costs based on Stadium Manager's breach of Management Agreement and/or continued violations of State or local laws.
- Stadium Manager projected a net shortfall of \$0 to \$600,000 for Non-NFL events for FY 2021/22.
- Addition of \$1.3 million on-going annual costs, Stadium Manager does not confirm that this will favorably impact projected shortfall.



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Stadium Manager Request

- Approval of the following staffing requests:
 - Adding a new Head of Public Ticketed Events position
 - Adding a new Director of Stadium Builder License (SBL) Information position
 - Adding a new Senior Financial Analyst position
 - Adding a new Director of Procurement position
 - Filling an Accounting Manager position and Staff Accountant position during FY 2021/22 Q2, rather than Q4
- These positions were either not budgeted in the Stadium Authority FY 2021/22 Budget, or were originally anticipated to be filled later in the fiscal year, and will require a \$650,000 budget amendment if approved for the portion left of this fiscal year.



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Request and Follow Up

- Stadium Manager submitted a summary of the positions (Attachment 1 in corresponding report #21-1091), **largely justified by the conversion of an existing vacancy to a SCSA Management Analyst position** that is planned for hiring.
- Staff reviewed the request and sent questions to understand Stadium Manager staff's current workload, responsibilities, and the need for the requested positions.
- Staff's questions and Stadium Manager's responses are outlined in this report (also Attachment 2 in #21-1091).
- There are still pending questions and concerns following the Stadium Manager's submitted responses.



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Head of Public Ticketed Events

Key Concerns:

- Stadium Manager anticipated the need to book events for 2022 and 2023 in FY 2021/22 during the budget process, lost time and delays in seizing opportunities.
- Regional venues (albeit arenas) like Oakland Area, SAP Center, and Chase Center have significant number of large scaled events booked for 2021 and 2022.
- In comparison, per Stadium Manager's June 2021 quarterly report, there were only 2 small non-ticketed events (one with 3 attendees) booked at Levi's Stadium through March 2022. No ticketed events booked.
- SCSA-funded Non-NFL Ticketing Ops team has 8 members (at least 2 Directors, 2 Senior Managers, etc.)



Head of Public Ticketed Events Continued

Source: Stadium Manager's FY 20/21 Year-End Non-NFL Documents →

Coordinator, SBL & Ticket Finance
 Coordinator, Ticketing
 Director, Ticketing
 Director, Ticketing & Public Events
 Manager, Ticketing
 Senior Manager, Levi's® Stadium Ticketing & Strat
 SR Manager, SBL & Ticket Finance
 Ticketing Representative

 Ticket Ops

Levi's Stadium Net Revenue for Non-NFL Events by Event Type, as of, 3/31/20

Note: Shortfall for FY 20/21 and projected shortfall for FY 21/22

| EVENT TYPE | 2014/15 | | 2015/16 | | 2016/17 | | 2017/18 | | 2018/19 | | 2019/20 | |
|-------------------------------------------------------------------|---------------|---------------------|---------------|---------------------|---------------|---------------------|---------------|---------------------|---------------|-----------------------|---------------|-----------------------|
| | No. of Events | Net Revenue | No. of Events | Net Revenue | No. of Events | Net Revenue | No. of Events | Net Revenue | No. of Events | Net Revenue | No. of Events | Net Revenue |
| Ticketed Events | | | | | | | | | | | | |
| Concerts | 0 | \$ - | 7 | \$ 3,791,985 | 4 | \$ 2,424,572 | 2 | \$ 1,819,099 | 3 | \$ 1,438,848 | 1 | \$ 856,583 |
| Sporting events | | | | | | | | | | | | |
| Football (non-NFL) | 5 | (3,007,907) | 4 | (2,316,903) | 4 | (2,946,165) | 4 | (3,601,827) | 4 | (3,437,297) | 3 | (3,170,926) |
| Soccer | 2 | 3,948,144 | 2 | 891,300 | 5 | 2,414,209 | 3 | 3,228,754 | 3 | (267,981) | 2 | (65,295) |
| Miscellaneous events | 2 | 2,504,912 | 4 | (149,392) | 5 | (159,175) | 4 | 76,379 | 2 | (67,502) | 2 | (458,609) |
| Subtotal Ticketed Events | 9 | \$ 3,445,149 | 17 | \$ 2,216,989 | 18 | \$ 1,733,441 | 13 | \$ 1,522,405 | 12 | \$ (2,333,932) | 8 | \$ (2,838,247) |
| Subtotal Ticketed Events - Other Expenses | | | | | | | | | | | | \$ (167,217) |
| Subtotal Special Events (weddings, corporate events, etc.) | 186 | \$ 1,762,404 | 204 | \$ 3,862,027 | 127 | \$ 3,583,453 | 113 | \$ 3,640,924 | 100 | \$ 2,352,523 | 79 | \$ 1,492,331 |
| Subtotal Other Operating Expenses | | | | | | | | | | | | \$ (1,227,881) |
| Total Non-NFL Net Revenue | 195 | \$ 5,207,553 | 221 | \$ 6,079,016 | 145 | \$ 5,316,894 | 126 | \$ 5,163,329 | 112 | \$ 16,691 | 87 | \$ (2,741,014) |
| Total Performance Rent paid to the General Fund | | \$ 2,513,777 | | \$ 2,932,008 | | \$ 2,533,447 | | \$ 2,439,164 | | \$ - | | \$ - |

Head of Public Ticketed Events Continued

Key Concerns:

- Unclear why 49ers staff are performing Non-NFL related work and commingling two separate agency duties.
- Confirms SCSA's long standing concerns with conflicts of interest and improper commingling of a private business and public agency.
- Not fiscally prudent to add another head position when the team is not able to show how this will support a fiscal "turn around" strategy. Unclear what is the cost benefit to SCSA for adding this position and no data on how much booking activity this position is anticipated to generate.
- When asked to demonstrate how the addition of this position will pay off in terms of returns in revenue generating Non-NFL activity, the Stadium Manager states that the position will focus on revenue generation for FY 2022/23 and beyond, and that it will not reduce the projected deficit for FY 2021/22.



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Head of Public Ticketed Events Continued

Recommendation:

- Do not approve this position until the Stadium Manager provides additional information that addresses these valid concerns.
- **ADD:** If the Board decides to approve this position, the Board needs to establish how it will prevent conflicts of interest based on 49ers' past practices and Stadium Manager's response confirming 49ers' role.
- **ADD:** SCSA Executive Director will require that this position file Form 700, as authorized through Board action.
- Alternatively, as the request is being made in the context of the Board having already terminated the Management Agreement, the Board could approve a competitive bid process to contract with a professional event-booking organization that is not unduly influenced by other financial interests or able to commingle private business interests with this public agency, as what has occurred by their own admission in their responses.



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Director of SBL Information

Key Concerns:

- Stadium Manager states *“requirement for this newly created position is in response to the SCSA’s plan to hire a new Management Analyst in the current FY2021/22 budget.”* SCSA is filling a position that has been vacant for years, but given City resource reductions (-26%), now needs this position to keep up with SCSA work.
- SCSA pays Stadium Manager \$2M/yr to manage SBLs with multiple staff. Request should be to absorb new work, manage for more efficiencies, and improve performance.
- SCSA has absorbed additional workload caused by Stadium Manager without any new staffing resources:
 - a) Digitization of SBL database, Stadium Manager neglected to perform over many years.
 - b) Auditing work when reviewing SBLs for SCSA execution, due to persisting errors in legal documents.
 - c) SBL sales map on website was wrong and identified by SCSA by due diligence work.
- Position summary and follow up responses do not provide clear justification for the proposed position and expenditure of public funds.



Director of SBL Information Continued

Recommendation:

- Staff recommends that the existing SBL Sales team first absorb any potential workload, although not currently anticipated by the SCSA.
- This allows SCSA Board to determine whether there really exists an increase workload for SBL work based on the filling of one SCSA vacancy.



Senior Financial Analyst

Key Concerns:

- Stadium Manager is requesting another position only in response to the Management Analyst position, which was approved to provide internal support to SCSA team. Stadium Manager states that its *"requirement for this newly created position is in response to the SCSA's growing financial staff, including a Management Analyst position at a loaded rate of ~\$195K in the Board approved FY2021-22 budget."*
- Stadium Manager has an existing team, made up of multiple staff, that is performing the responsibilities of the requested position. Position summary and follow up responses do not provide clear justification for the proposed position and expenditure of public funds.

Recommendation: Staff recommends that the existing team absorbs any potential workload, although not currently anticipated. This allows SCSA Board to determine whether there really exists an increase workload based on the filling of one SCSA vacancy.



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Director of Procurement

Key Concerns:

- Position has been filled, disregarding Board's authority and agreement provisions outlining the requirement of Board approval before committing SCSA to expenditures.
- Changes for preparing agreements for Board approval has been in place since November 2019, almost 2 years ago, without any material demonstration of improvement.
- Responses do not explain whether the position will work on public works CapEx projects. Stadium Manager is significantly behind on repair and maintenance obligations, unable to maintain the standard of care for the Stadium, and still has not provided a procurement plan/schedule of budgeted CapEx projects to SCSA, despite Board direction on 3/23/21.



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CapEx Standard of Care

Stadium Manager’s current request for the SCSA Board to knowingly violate State Law should cause for significant concern about whether adding more resources makes sense. Even with the positions filled, State Law violations persist. Board should be concerned that CapEx projects will continue to be delayed and that Stadium Manager will continue to function out of compliance with State laws.

| Fiscal Year | CapEx Budget for Stadium Manager Projects and Projects Managed by Stadium Manager | CapEx Dollars Expended by Stadium Manager |
|-------------|-----------------------------------------------------------------------------------|----------------------------------------------------------------|
| FY 2018/19 | \$6.3M | \$1.4M (22% spend rate) |
| FY 2019/20 | \$12.5M | \$254,753 (2% spend rate) |
| FY 2020/21 | \$8.9M | \$217,004 (2% spend rate) |
| FY 2021/22 | \$10.7M | \$363,094 (3% spend rate to date and non-public works related) |



Director of Procurement Continued

Recommendation:

- Approval of this proposed position should be dependent on whether it can implement budgeted public works/CapEx projects and, once and for all, submit of the Board directed procurement plan.
- **ADD:** Directive to Stadium Manager to not request “emergency” or any other action that intentionally violates State Law and not present SCSA Board with requests that waste time and resources to intentionally violate the State Law.
- **ADD:** SCSA Executive Director will require that this position file Form 700, as authorized through Board action.



Accounting Manager & Staff Accountant

Comments:

- These positions were already included in the FY 2021/22 Budget and were originally budgeted to start in Q4.
- Stadium Manager is proposing to fill the positions in Q2 (August 2021) to assist with the financial management system (FMS) implementation.
- FMS is a priority for both SCSA and Stadium Manager and SCSA should be supportive this effort.
- Stadium Manager's letter dated August 23, 2021, states that "*These two new positions will be **devoted primarily, but not exclusively**, to working on the new accounting system requested by the SCSA.*"



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Accounting Manager & Staff Accountant

Comments:

- Based on staff's current review of the Stadium Manager's FY 2020/21 Year End Reconciliation documents for Non-NFL events, the Stadium Manager has performed significant account clean-up work dating back to 2014 which raises questions about past accounting practices.
- Nevertheless, staff supports this reconciliation effort and new transparency; however, it should not come at the SCSA's expense and new staffing resources should only be used for FMS implementation (not for Stadium Manager's statement of **devoted primarily, but not exclusively**).

Recommendation:

- Approve the Accounting Manager and Staff Accountant positions to be filled during FY 2021/22 Q2. SCSA reserves all rights to recoup these costs and other costs based on Stadium Manager's breach, including any payments associated with the FMS Implementation.



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Fiscal Impact

- Estimated cost to implement these staffing changes is \$650,000 for remainder of FY 2021/22. Assuming these positions are hired in September 2021, halfway through the fiscal year, the estimated annual cost is approximately \$1.3 million.
- SCSA does not have the annualized cost for each position. When staff requested for this breakdown, the Stadium Manager responded that the information was confidential and would be provided through a separate meeting.
- If the Board acts on any portion of the request, including staff's recommendation, these costs will require a budget amendment.
- In such case, staff will meet with the Stadium Manager to view the approved positions' salaries and benefits to complete the budget amendment.



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Recommendation

1. Approve the Stadium Manager's request to add a Director of Procurement position, subject to guarantee from the Stadium Manager approved public works/CapEx projects will be implemented, demonstrate compliance with all applicable legal procurement requirements, direct the Stadium Manager to provide the costs of the approved staffing changes, and submit the Board directed procurement plan/schedule;
2. If the Board decides to approve the Head of Public Ticketed Events position, the Board needs to establish how it will prevent conflicts of interest based on 49ers' past practice and Stadium Manager's response confirming 49ers' role in booking Non-NFL events (as the Board cannot knowingly violate Conflict of Interest laws);
3. Approve the Stadium Manager's request to fill a budgeted Accounting Manager and budgeted Staff Accountant position during FY 2021/22 Q2 instead of Q4, and direct the Stadium Manager to provide the costs of the approved staffing changes with guarantee that these resources are not being used for the clean-up accounting activity that the Stadium Manager has underway which should have always been completed or any other duties;



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Recommendation Continued

4. Delegate authority to the Executive Director to approve a budget amendment for the Stadium Authority Board approved positions based on a future review of salaries and benefits costs with the Stadium Manager;
5. Direct staff to report back on a competitive process to contract with an independent professional event-booking contractor instead of funding additional 49ers organization employees for booking Non-NFL events;
6. Direct the Stadium Manager to not request "emergency" or any other action that intentionally violates State Law and not present SCSA Board with requests that waste time and resources to intentionally violate the State Law;
7. Stadium Authority reserves its right to recoup any dollars if it is discovered that the Stadium Manager is not complying with the State law; and
8. Accept disclosure that Head of Public Ticketed Events and Director of Procurement must complete Form 700 Statement of Economic Interest to ensure that there are no conflicts of interest.



SCSA

Santa Clara Stadium Authority