



FORTY NINERS STADIUM MANAGEMENT COMPANY

December 15, 2021

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

Levi's Stadium Santa Clara, CA Recommendation for Award and Budget Augmentation Questions and Answers

Ms. Jung:

The following is a response to your four separate emails regarding recent recommendations for awards of Levi's Stadium Capex Projects. Stadium Manager has responded to each of your questions listed in the emails listed below. Specifically, this letter responds to the questions contained in the following emails: including the most recent one sent yesterday afternoon.

1. December 8, 2021 email titled, "RE: Recommendation for Award - Rust Mitigation"
2. December 8, 2021 email titled, "RE: Recommendation for award for the Levi's Stadium Electrical Rooms Light Fixtures Project"
3. December 8, 2021 email titled, "RE: Recommendation for Award for the Luminaire Replacement Project"
4. December 14, 2021 email titled, "RE: Recommendation for a Budget Augmentation for the Levi's Stadium Insulation Capping"

EMAIL #1: RE: Recommendation for Award - Rust Mitigation:

1. The CapEx project is budgeted for \$94,500, which is significantly higher than the bid amount that is being requested for approval. How does this amount differ than the engineer estimate?

Market research was performed while developing the bid documents. This research led us to anticipate a project cost of approximately \$30,000, but we were aware of uncontrollable trends that may have impacted the project cost. This estimated project cost was intentionally held to a lower dollar value than the approved budget because of the volatility in the market place for paint while the bid documents were developed. Specifically, our research identified a national paint shortage and ongoing supply issues in the late summer and early fall months of 2021, which can be researched in the September 10, 2021 CNBC article "*Paint is getting costlier and harder to find, and this could just be the beginning.*"



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Manufacturers speculated that additional pricing actions could influence rising costs. Prices for painting and coating manufacturing rose 10.6% in August of 2021. We intentionally held the projects quantities to a lower amount due to this uncertainty in material costs and supply chain issues.

Additionally, we know that that pricing for this type of project may vary greatly depending on the type of lift or access equipment used by the Contractor. Lift and access equipment are typically the means and methods of the Contractor, which has a direct impact on the project cost. We learned after the bid opening that the Contractor recommended for award for this project made the decision to not charge the lift equipment expenses to the project, which may have also lowered the cost of the over budget.

All of this research led us to specify a smaller quantity of paint for this pilot project to both reduce the risk of overrunning the project budget. Due to the uncertainty in market conditions, we included an Adjustment of Bid Quantities language that allows the Stadium Manager to reserve the right to increase or delete actual quantities of work by up to 25% of the estimated quantities reflected in the bid schedules (base bid and alternate) without any change to the unit price costs bid and without liability of any kind.

In summary, we believe that the combination of focusing the paint to a small test area, as well as receiving competitive pricing, resulted in a bid amount that is less than the project budget. Upon completion and confidence in the work performed, we will bring forward any additional scope necessary for further any required approvals.

2. Will this be a multi-phased project, and if so, why wasn't entire project bid out at the same time to ensure strategic procurement?

Yes. The scope of this project was intended to be a pilot project and will be expanded to other areas of the stadium in future solicitations, but only after a thorough review and evaluation is conducted. The strategic decision was made to test the paint application prior to spending a large amount of money on a larger painting contract to ensure that the product and application was acceptable. If acceptable, this scope of work will be included as a multi-phased project that will be expanded to other parts of the stadium. We anticipate that this may become a regularly occurring project that will likely occur in several phases and years for when the need arises to paint and recoat the structural steel throughout the stadium.

Also, the current contract recommended for award includes Adjustment of Bid Quantities language in the RFB that allows the Stadium Manager to reserve the right to increase or



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delete actual quantities of work by up to 25% of the estimated quantities reflected in the bid schedules (base bid and alternate) for this contract without any change to the unit price costs bid and without liability of any kind.

3. Why was the project bid out as a construction project?

The painting work is a standard public works project similar to other construction projects because it does not qualify as maintenance under the statutory definition set forth in Public Contract Code section 22002(d)(2). That statute defines maintenance to mean "minor repainting." The Rust Mitigation project goes well beyond minor repainting (i.e., touchup type painting) as it involves full paint and rust removal and repainting of large areas of the facility.

EMAIL #2: RE: Recommendation for award for the Levi's Stadium Electrical Rooms Light Fixtures Project

1. The CapEx project is budgeted for \$157,500 which is higher than the bid amount that is being requested for approval. How does this amount differ than the engineer estimate?

The recommended NTE amount of \$111,958 is lower than the approved Cap Ex budget amount to \$157,500 because of reduction in scope, (the Mechanical Rooms will be handled in a later project) but offset by significant price escalation in construction costs. It is important to note that construction costs have been extremely volatile; thus, making the comparison of current pricing to earlier conceptual estimates difficult. Data provided by the US Bureau of Labor Statistics through November 2021 indicate that nonresidential construction input prices rose 24.5% in the past year. In view of the current market volatility, the overall scheduling of various Stadium projects and events, and an opportunity to phase this work in order to evaluate the performance of the upgrades, we decided it was appropriate to handle the Mechanical Rooms in a later project.

2. Will this be a multi-phased project, and if so, why didn't the Stadium Manager bid for the entire project at the same time to ensure strategic procurement?

As noted above, this bid does not include the Mechanical Rooms, which will be handled in a later project.



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3. The proposed work is for the Electricals and Telecom Rooms. Can you confirm that they are mechanical and electrical closets located in the 300 and 700 level as outlined under the CapEx project description?

Yes. We can confirm the proposed work is for electrical closets throughout the stadium including 300 and 700 level.

4. The Stadium Manager has existing agreements with Bear Electrical and Cupertino Electric for electrical repairs and maintenance, including lighting and physical security work. Would those agreements' scope of work cover this project, and if so, why didn't the Stadium Manager use them?

It was our judgment that bidding this project separately would deliver the most advantageous outcome, and that was confirmed by the results of the process. The agreements with Bear Electrical Solutions, Inc. and Cupertino Electric Inc. approved by the SCSA Board on April 20, 2021 were established for on call electrical repairs and maintenance. At that time, we provided an anticipated list of projects for the first year of the agreement which comprised of projects utilizing operational expenses. This list of projects identified for the Bear Electrical Solutions, Inc. and Cupertino Electrical Inc. agreements are included below and can be referenced in my email to you on Wednesday, April 7, 2021.

For FY21/22, we would anticipate the following task orders (all of which are included in the FY21/22 budget):

- *Testing of the Primary Main Switch Gear and Primary Switch Gear, - \$200,000*
- *480V Distribution Equipment Clean and Torque - \$50,000*
- *Inspection and Testing of Emergency Inverter - \$7,000*
- *Building Controls Service and Support - \$39,000*
- *There is also an allowance miscellaneous unanticipated repairs for electrical equipment, security low voltage systems, fire alarm low voltage systems and other general equipment in the FY 2021/22 budget. - \$24,000*

5. If those agreements did not cover this work, why didn't the Stadium Manager combine the bids for this project and the Luminaire Project? The work appears to be very similar and the Stadium Manager may have received better pricing if they were combined.



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There is obviously a tension between combining multiple projects versus bidding tighter scopes. On the one hand you may get economies of scale for mobilization costs and general conditions, on the other hand you may reduce the pool of interested bidders by creating larger projects which are less appealing to smaller contractors due to various factors such as staffing, bonding capacity, etc. In this case, our judgement was that combining the two approved SCSA CapEx projects into one Request for Bid would not have resulted in an outcome that would have been more advantageous.

EMAIL #3: RE: Recommendation for Award for the Luminaire Replacement Project

We reviewed this request and supporting documentation and have the following questions/comments:

1. The Stadium Manager's recommendation to award an agreement to the lowest bidder for the Base Bid's scope of work (the removal and installation of luminaire fixtures in Levi's Stadium's loading dock area) doesn't appear to align with the Gold Lot 4 and 5 Lighting CapEx project description. Can you please let us know what changed to prioritize the docking station over the parking lots?

The base bid scope of work aligns with the project description. Specifically, the project description stated, "The current light plan is underpowered and is not sufficient given the work environment during stadium event load in/out." The loading dock, Gold Lot 4 and Gold Lot 5 light fixtures are all integral to the overall lighting outside of the stadium during stadium event load in/out and are part of the same lighting system. The loading dock lighting is included in this project description and meets the project description intent of improving the lighting for "stadium event load in/out". The loading dock lighting was selected as the base scope because it experiences the highest amount of traffic outside of the stadium during event load in/out.

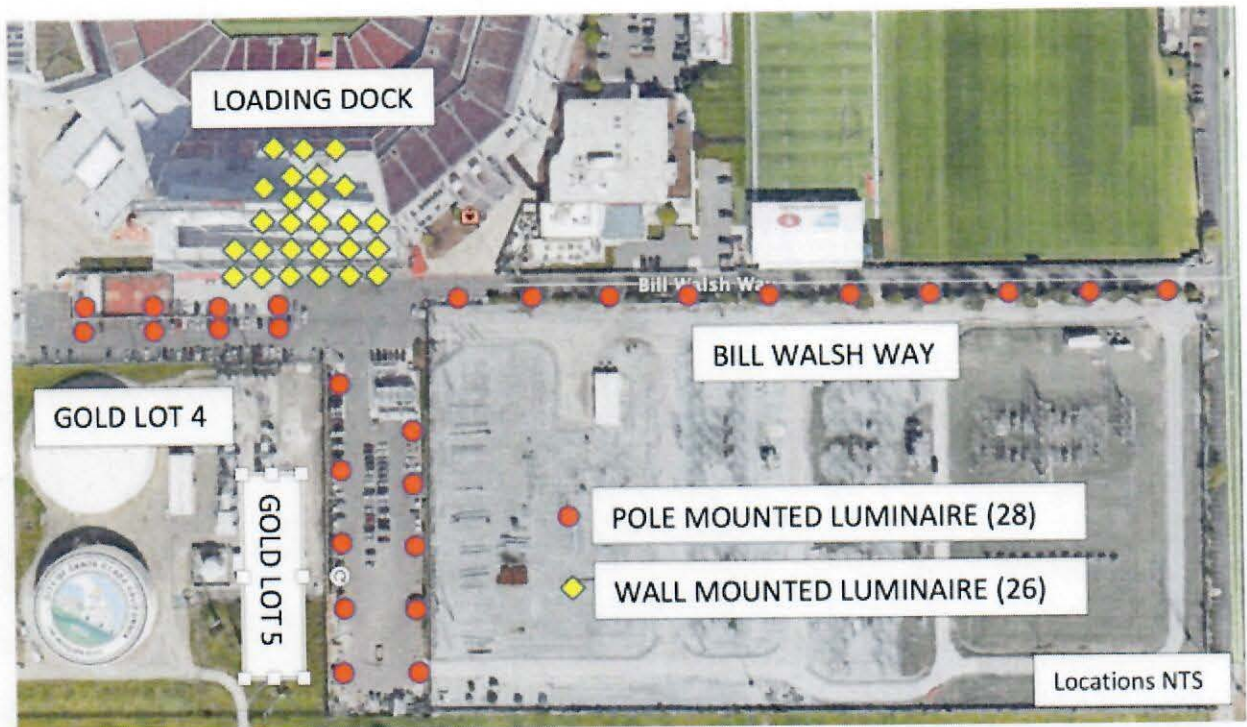
2. If the Stadium Manager would like to pursue this work for the loading dock area that would require a budget amendment since the project scope has significantly changed.

We disagree. Gold Lot 4/5 and the loading dock are all part of the event load in area at the south end of the Stadium. The loading dock area was included in the approved Cap Ex item, as it is a key component of the lighting required for event load in/out, as referred to in this sentence from the approved SCSA Cap Ex budget: "The current lighting plan is underpowered and is not sufficient given the work environment during stadium event load in/out".



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Furthermore, the project scope that was published on October 17, 2021, clearly stated that the Base Bid scope was for the loading dock (in yellow), with the pole mounted luminaire's as an add/alt item (in red):



These documents have been available to City Staff since they were published more than two months ago.

However, if City Staff believes it is an appropriate use of their resources to obtain Board approval to amend the SCSA Cap Ex Budget to insert the words "loading dock" to further underscore that the loading dock lighting is a part of the lighting required for event load in/out, we recommend City Staff handle that at the same time the Board considers the contract award.

3. Does the Stadium Manager anticipate implementing a new RFB for the Gold Lot 4 and 5 Lighting CapEx Project this fiscal year? If not, Stadium Authority staff recommends eliminating the line item as part of the Board report recommendation to reflect this change.

Yes. The Stadium Manager anticipates a future solicitation for Phase 2 of the Gold Lot 4 and 5 project for next fiscal year.



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4. The Stadium Manager has existing agreements with Bear Electrical and Cupertino Electric for electrical repairs and maintenance, including lighting and physical security work. Does those agreements' scope of work cover this project, and if so, why didn't the Stadium Manager use them?

The agreements with Bear Electrical Solutions, Inc. and Cupertino Electric Inc. approved by the SCSA Board on April 20, 2021 were established for on call electrical repairs and maintenance. At that time, we provided an anticipated list of projects for the first year of the agreement which comprised of projects utilizing operational expenses. This list of projects identified for the Bear Electrical Solutions, Inc. and Cupertino Electrical Inc. agreements are included below and can be referenced in my email to you on Wednesday, April 7, 2021.

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5. If those agreements don't cover this work, why didn't the Stadium Manager combine the RFBs for this project and the Electric Rooms Light Fixtures Project? The work appears similar and the Stadium Manager may have received better pricing that way.

There is obviously a tension between combining multiple projects versus bidding tighter scopes. On the one hand you may get economies of scale for mobilization costs and general conditions, on the other hand you may reduce the pool of interested bidders by creating larger projects which are less appealing to smaller contractors due to various factors such as staffing, bonding capacity, etc. In this case, our judgement was that combining the two approved SCSA CapEx projects into one Request for Bid would not have resulted in an outcome that would have been more advantageous.

EMAIL #4: RE: Recommendation for a Budget Augmentation for the Levi's Stadium Insulation Capping



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- The budget amendment request is significantly higher than the budgeted CapEx project amount. How does this amount differ than the engineer estimate and what accounted for the difference (e.g., was the project scope expanded or did the area of work expand, etc.)?

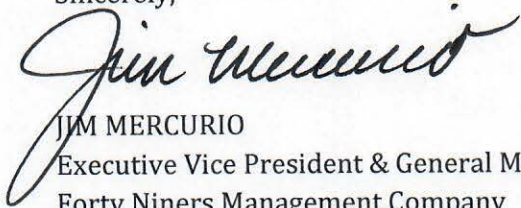
The Stadium Insulation Capping Project has an approved budget amount of \$ 157,500. The project scope was not expanded. The actual bid amount was \$465,520 for a variance of \$308,020. The difference in the budget amount and the actual bid amount is accounted for by both the complexity of the access to the work site (specialized equipment), the labor hours determined by the Contractor needed to perform the project, and significant increases in construction costs in recent months.

- Can this request wait until the budget process since the procurement process may take about the same time?

We can consider adding this request to the Fiscal Year 2022/23 SCSA Capex budget list, but deferring this project will result in a loss of 60-90 days of project lead time. We want to begin work in the February 2022 timeframe after the conclusion of the football season to avoid the stacking up of projects slated for 2022. Lastly, 2022 is anticipated to be a busier event season compared to 2021. Therefore, our preference is to move forward with this request during the current approval window and preserve the bidder's cost estimate and work schedule.

We hope that this update shows our continued good faith and commitment to addressing any and all outstanding comments or questions. Please place these items on the first available calendar in January 2022. Thank you.

Sincerely,



JIM MERCURIO

Executive Vice President & General Manager
Forty Niners Management Company

Cc: Compliance Manager
Ryan van Maarth, VP, Stadium Operations & Strategic Planning
Jenti Vandertuig, Director, Procurement



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Attached:

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