

[REDACTED]

From: Mercurio, Jim [REDACTED]
Sent: Friday, June 8, 2018 11:04 AM
To: Deanna Santana
Cc: [REDACTED]
Subject: Re: 6/12 Note and File Memo StadCo Refinancing to Stadium Authority Board.pdf

Dear Ms. Santana,

I understand that you need to close this out with the Board but the report is a mischaracterization of what happened. I would appreciate if you would share the following information with the Board, as well.

StadCo delivered the documents to the Stadium Authority as soon as they were available and six weeks before any signatures would be required. The hundreds of pages were documents where virtually all substantive terms had been approved by the Stadium Authority Board, not once, but twice before, in 2012 and 2013. Changes from those documents were marked clearly. Had the Stadium Authority engaged its counsel and advisors knowledgeable about the financing immediately, instead of waiting weeks to do so, it would have been advised quickly (as later advised) that there were no substantive changes and the refinancing would have no adverse effect to the Stadium Authority. In fact, the changes proposed are favorable to the project as a whole. Instead, the Authority waited weeks to engage counsel, and then, despite being advised clearly and repeatedly that delay could be a problem for achieving the refinancing (something positive for the whole project), moved the item from the May 29 agenda to the June 12 agenda. At that point, while StadCo may have a legitimate complaint under the terms of the StadCo Obligations Agreement, StadCo, without complaint and at added expense to itself, instead worked diligently to find a way to complete the refinancing in a manner that would not be affected by the Stadium Authority's failure to act in a timely manner.

In addition, we are surprised at your suggestion that a detailed review with your staff of the Levi's financing and any proposed changes was somehow a waste of time, whether or not approval of the Board is required.

Thank you.

JIM

JIM MERCURIO

VP, Stadium Operations & General Manager

Sent from my iPhone

On Jun 8, 2018, at 6:15 AM, Deanna Santana <DSantana@SantaClaraCA.gov> wrote:

Good Morning Jim,

Next week's Stadium Authority meeting packet will include the attached memorandum. I am transmitting this staff report to inform the Board regarding ManCo's initial request for the urgent review of various refinancing documents and subsequent withdrawal of the request. The Board had been advised that we were working on this request on an urgent basis and I need to close the matter out with them.

As you well know, as discussed in our May 24 evening telephone call, ManCo's urgent review forced Authority staff to divert valuable staff time from other significant City and Board priorities and engage consultants/legal counsel to ensure a due-diligence review of the submitted documents prior to taking the documents to the Board for approval. In the end, this urgent drill could have been entirely avoided had the 49ers (StadCo/ManCo) communicated with us in advance well in advance of the required deadline (keeping in mind our other duties and the often required legislative process and meeting calendar). In the future, I respectfully ask that you work on your end to verify the true urgency of an item before characterizing it as such. This needless effort resulted in expending funds not anticipated in the recently approved FY 2018/19 Stadium Authority Budget and a waste of public resources. I want to work with you to work together to do better, I believe that it is achievable.

Thank you,

DEANNA J. SANTANA | Executive Director
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D: 408.615.2211 | www.santaclaraca.gov/scsa
<image001.png>

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<Information Memo reg. StadCo Refinancing to Stadium Authority Board.pdf>

REPORT TO STADIUM AUTHORITY BOARD

SUBJECT

..Title

Note and File – Disposition of the Forty Niners Stadium Management Company's Request Regarding the Refinancing of StadCo's Variable Debt

..Report

BACKGROUND

On June 11, 2013, the Stadium Authority Board adopted Resolution No. 13-8 (Stadium Authority) approving an amended and restated Credit Agreement, and all related agreements, in connection with takeout financing for the construction debt. Among the agreements entered into as of June 19, 2013, were

- An amended and restated Credit Agreement (the "Authority Credit Agreement"), by and among the Stadium Authority, as borrower, Stadium Funding Trust ("FinanceCo"), as lender, and Goldman Sachs Bank USA ("GSB"), as administrative agent, and
- An amended and restated StadCo Obligations Agreement, by and among the Stadium Authority, as borrower, Forty Niners SC Stadium Company LLC (StadCo), as lender, and Stadium Funding Trust ("FinanceCo").

The Stadium Authority incurred debt for construction of the Stadium under these agreements. StadCo concurrently entered into a parallel credit agreement with FinanceCo and GSB to finance StadCo's tenant improvements to the Stadium and fund its obligations under the StadCo Obligations Agreement to make a loan to the Stadium Authority for stadium construction.

All bank and institutional debt related to the stadium project was made available through FinanceCo, which is the direct borrower, and, in turn, loaned funds to the Stadium Authority and StadCo under their respective credit agreements. The credit facilities were designed to optimize the pricing and terms of the loans for both the Stadium Authority and StadCo.

The Stadium Authority and StadCo each used a combination of long-term fixed rate debt and shorter-term variable rate debt. The debt was structured this way to accommodate the continued construction requirements with the ability to draw additional funds under the short-term financing facility, and to allow for the most productive use of revenues received during construction and the first years of stadium operations, either directly in construction or to prepay construction related debt without a penalty if excess funds became available.

The Stadium Authority repaid all of its short-term variable rate debt (Term B) by March 31, 2016, seven years earlier than anticipated at the time of the 2013 takeout financing. StadCo still has variable rate debt that is outstanding. A portion of StadCo's variable rate debt must be repaid in full or refinanced by June 19, 2018. StadCo also has

additional variable rate debt required to be refinanced within the next five years. The need to refinance short term debt was contemplated in the 2013 agreements. Had the Stadium Authority not repaid all of its short-term debt, it would also have needed to refinance at this point in time.

Due to the way the Stadium Authority and StadCo debt was structured through FinanceCo, Stadium Authority is a signatory to certain financing documents that also govern the terms of the financing for StadCo. In connection with the refinancing, StadCo contacted the Stadium Authority Counsel in early May 2018 asking that Stadium Authority staff review various refinancing documents. Staff originally intended to bring the refinancing to the Board for approval at the May 29 Stadium Authority meeting; however, other competing priorities caused for the item to be deferred to June 12, 2018. It is important to note that representatives from the Forty Niners Stadium Management Company (ManCo) did not mention or indicate the urgency of the refinancing at any of the monthly coordination meetings, the most recent which was held on April 26, 2018, which put Stadium Authority staff in a position to refocus its planned workload to accommodate their urgent review.

DISCUSSION

On May 8, 2018, Stadium Authority staff received an e-mail from StadCo to the Stadium Authority Counsel which included the documents to be amended to effectuate the refinancing for StadCo's variable debt. After an initial review of two documents with several hundreds of pages, Stadium Authority staff informed StadCo that there was insufficient time to review the documents and bring them forward for Board consideration and approval for the May 29 meeting (reports would have required completion by May 16, 2018, thus providing five business days to review and complete a staff report). Upon deferring the item to June 12, staff began to thoroughly review the documents, and given turnover in Finance and the City Manager's Office, staff sought outside consultant and counsel support, with prior background on the financing, to review the documents.

Late May and early June staff had several conference calls with outside consultant and counsel and StadCo representatives to complete timely due diligence on this matter. As a result, StadCo and Stadium Authority staff agreed on the edits of the refinancing documents by or about June 1. To our surprise, on June 4, after expending considerable staff time, reprioritizing other work, and incurring expense of consultant and outside legal counsel, StadCo left a message for the Stadium Authority Executive Director stating that the item for June 12 does not need to go the Board and requires no amendment without any explanation as to how this new position was consistent with the applicable executed agreements. In an effort to understand the change in urgency and how StadCo would proceed with restructuring their variable rate debt, Stadium Authority staff inquired and was informed that these actions were no longer necessary because StadCo would refinance with their current lenders in a way that will not require

an amendment of documents nor Stadium Authority signatures. Staff has confirmed with Stadium Authority consultants that no action will be required by the Stadium Authority. Unfortunately, the consumption of public resources was not taken into account when StadCo raised this urgent request for review and it is not clear whether these costs are recoverable.

ENVIRONMENTAL REVIEW

Not applicable.

FISCAL IMPACT

The Stadium Authority expended thousands of dollars of public funds to respond in good faith to ManCo's urgent request to review documents related to the restructuring of StadCo's variable debt. Consultant costs incurred to provide expert financial and legal review are estimated at \$10,000. It is important to note that these costs were not anticipated when the Board approved the FY 2018/19 Stadium Authority Budget. Staff expenses are expected to be thousands of dollars as well. Unfortunately, these funds do not appear recoverable.

COORDINATION

This report has been coordinated with the Stadium Authority Counsel's Office

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email clerk@santaclaraca.gov or at the public information desk at any City of Santa Clara public library.

RECOMMENDATION

..Recommendation

Note and File –Disposition of Forty Niners Stadium Management Company's Request Regarding the Refinancing of StadCo's Variable Debt

..Staff

Reviewed by: Angela Kraetsch, Treasurer

Approved by: Deanna J. Santana, Executive Director