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REPORT TO STADIUM AUTHORITY BOARD

SUBJECT

Report from the Stadium Authority Regarding Stadium Manager’s Request to Execute Agreement with R.E. Cuddie Co. for Non-Slip Floor Matting CapEx Project and Related Budget Amendment

BOARD PILLAR

Ensure Compliance with Measure J and Manage Levi’s Stadium

BACKGROUND

On October 8, 2019, the Stadium Authority Board (Board) approved Ordinance No. 2005 amending Chapter 17.30 of the City Code (Stadium Authority Procurement Policy), which rescinded the delegation to the Executive Director to enter into agreements without prior Board approval. As result of Ordinance No. 2005, the Stadium Manager is also required to request Board approval before entering into agreements on behalf of the Stadium Authority. As of the effective date of the Ordinance (November 8, 2019), all Stadium Authority agreements for services, supplies, materials, and equipment require the approval of the Stadium Authority Board.

As the Stadium Manager, Forty Niners Stadium Management Company, LLC is responsible for maintaining “the Stadium in the Required Condition and operate the Stadium as a quality NFL and multi-purpose public sports, public assembly, exhibit and entertainment facility” as required by the Management Agreement between the Stadium Authority and ManCo.

The Stadium Manager is requesting approval for the following:

1. Award a one-time agreement to R.E. Cuddie Co. in the amount of \$53,955 for the removal and disposal of existing resilient athletic flooring from service tunnels, and the furnishing and installation of rubber resilient athletic flooring at Levi’s Stadium. This work is included in the Stadium Authority FY 2021/22 CapEx budget under the Non-Slip Floor Matting line item. This

was a carryover project from the FY 2019/20 CapEx Budget;

2. Authorization to execute any and all documents associated with and necessary for the award, completion, and acceptance of the project; and
3. Authorization to execute change orders up to approximately 10% of the contract cost, or \$5,396, for a total not to exceed amount of \$59,351.

DISCUSSION

Stadium Authority staff reviewed the Recommendation for Award memo, supporting procurement documents, and agreement with R.E. Cuddie Co. (these documents are attached to corresponding report #21-1440). In reviewing the request, staff recommends that the Stadium Manager's request for delegated authority to execute any and all documents associated with, and necessary for the award, completion, and acceptance of the project; and change orders up to approximately 10% of the contract cost, or \$1,461, be delegated instead to the Executive Director.

Section 2.1 in the First Amendment to the Management Agreement states that the Stadium Manager only has the ability to enter into contracts with providers to the extent has authority to enter into such Stadium Procurement contracts pursuant to the Santa Authority Procurement Policy. Currently, the Executive Director has no procurement delegated authority under the Stadium Authority Procurement Policy. As such, if the Board approves staff's recommendation to provide the Executive Director with such authority to execute any and all documents associated with, and necessary for the award, completion, and acceptance of the project; and change orders up to approximately 10% of the contract cost, the Stadium Manager would not have the same authority to do so. This approach accomplishes the expediency that the Stadium Manager seeks and is compliant with the First Amendment to the Management Agreement.

Staff has no additional comments regarding the Stadium Manager's request and recommends approval of the agreement with R.E. Cuddie Co. The Stadium Authority will require full supporting documentation including compliance with prevailing wage laws, if applicable, before respectively releasing public funds upon completion of work. This requirement is consistent with the Stadium Authority Board's March 27, 2019 direction to staff to stop payment of any additional invoices for services unless there is substantial documentation of services rendered which must also be in compliance with State law and City Code.

ENVIRONMENTAL REVIEW

The actions being considered do not constitute a "project" within the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378(a) as it has no potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment or pursuant to CEQA Guidelines section 15378(b)(4) in that it is a fiscal activity that does not involve any commitment to any specific project which may result in a potential significant impact on the environment.

FISCAL IMPACT

The Stadium Authority FY 2021/22 CapEx budget includes \$52,500 for the Non-Slip Floor Matting line item which the described services fall under. There are not enough sufficient funds to cover the total cost of agreement (\$53,955) and the 10% contingency (\$5,396) that the Stadium Manager is recommending (\$59,351). The Stadium Manager has requested to use unspent and unobligated

funds from the Stadium Authority FY 2021/22 CapEx Budget to cover the remaining amount of \$6,851 above the \$52,500 budgeted for the line item. This will require the Board's approval of a budget amendment in the amount of \$6,851 to fund the total agreement and 10% contingency amount exceeding the budgeted amount for the line item in the Stadium Authority FY 2021/22 CapEx Budget. A decrease to the Capital Reserve is recommended to offset this action.

The Stadium Manager advertised the Request for Bids in the San Jose Mercury News publication for the amount of \$791. On July 13, 2021, the Stadium Authority Board previously approved up to \$20,000 for the Stadium Manager to publish legal notices in the San Jose Mercury News and Santa Clara Weekly for various solicitations.

COORDINATION

This report has been coordinated with the City's Purchasing Manager, Stadium Treasurer's Office, and Chief Assistant City Attorney.

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.

RECOMMENDATION

1. Approve the Stadium Manager's request to execute an agreement with R.E. Cuddie Co. for the removal and disposal of existing resilient athletic flooring from service tunnels, and the furnishing and installation of rubber resilient athletic flooring at Levi's Stadium (Non-Slip Floor Matting CapEx line item) in an amount not to exceed \$53,955, and authorize the Executive Director to approve and process the reimbursement of such costs upon receiving final invoices and supporting documentation from the Stadium Manager;
2. Authorize the Executive Director to approve the execution of any and all documents associated with, and necessary for the award, completion, and acceptance of the project;
3. Authorize the Executive Director to approve the execution of change orders up to approximately 10% of the contract cost, or \$5,396, for a total not to exceed amount of \$59,351; and
4. Approve a budget amendment in the amount of \$6,851 to fund the total agreement and 10% contingency amount exceeding the budgeted amount for the line item in the Stadium Authority FY 2021/22 CapEx Budget, offset by a decrease in Capital Reserves.

Prepared by: Christine Jung, Assistant to the Executive Director

Reviewed by: Deanna J. Santana, Executive Director