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Attachments: 1. Proposed Santa Clara Stadium Authority Fiscal Year 2021-22 Operating, Debt Service, and Capital Budget, 2. March 9, 2021 21-401 SCSA Proposed Budget and Staff Presentation, 3. March 9, 2021 21-405 Draft 2021 Non-NFL Events Marketing Plan for Levi's Stadium and Staff Presentation, 4. Annual Public Safety Budget, 5. Stadium Authority Budget Policy, 6. Stadium Authority Compliance and Management Policy, 7. Stadium Authority Budget Submittal Questions and ManagementCo Responses to Questions, 8. 2021 Marketing Plan Questions, 9. December 1, 2020 Letter regarding FY2019/20 Non-NFL Event Documentation, 10. Responses to SCSA Board Questions from March 9 and 10 Study Sessions, 11. POST MEETING MATERIAL

Date	Ver.	Action By	Action	Result
3/23/2021	1	City Council and Authorities Concurrent	Approved	Pass

REPORT TO STADIUM AUTHORITY BOARD

SUBJECT

Action on the Proposed Santa Clara Stadium Authority Fiscal Year 2021/22 Budget, Stadium Operation and Maintenance Plan, and 2021 Marketing Plan (*Not to be heard prior to 6:00 PM*)

BOARD PILLAR

Ensure Compliance with Measure J and Manage Levi's Stadium

BACKGROUND

The Stadium Management Agreement (Management Agreement) defines the Stadium Operation and Maintenance Plan (SOMP) as the plan designed to achieve a safe and well maintained Stadium and shall include the standards for management and operation of the Stadium, including the required security, staffing, and other required elements of hosting Stadium Events. The Stadium Manager is responsible for preparing the SOMP annually and presenting it to the Stadium Authority, with the following items included:

1. Annual Shared Stadium Expense Budget;
2. Annual Public Safety Budget;
3. Capital Expenditure Plan; and,
4. Marketing Plan.

Each year, the Stadium Authority staff prepares, in coordination with the Forty Niners Stadium

Management Company (ManagementCo or Stadium Manager), the proposed Santa Clara Stadium Authority Operating, Debt Service, and Capital Budget for the Stadium Authority's twelve month fiscal year (April 1 through March 31) in accordance with Article 4 "Records, Accounts, Budgets, and Reports" of the Management Agreement. The 2021/22 Proposed Budget is included as Attachment 1 to this memorandum and reflects the Proposed Budget presented to the Santa Clara Stadium Authority Board (Board) on March 9, 2021.

At its March 9, 2021 meeting, the Board held a Study Session to discuss the proposed Santa Clara Stadium Authority Operating, Debt Service, and Capital Budget, and the Proposed Budget document and staff presentation are included as Attachment 2. As a separate item on the March 9 Study Session agenda and continued to March 10, 2021, the draft 2021 Non-NFL Events Marketing Plan as prepared by ManagementCo (Attachment 3 - report and presentation) was also discussed. In addition, the Annual Public Safety Budget (Attachment 4), the Stadium Authority Budget Policy (Attachment 5), the Stadium Authority Compliance and Management Policy (Attachment 6), and Stadium Authority budget submittal questions were presented (Attachment 7).

During the Study Sessions, the Board provided valuable feedback and asked pertinent questions. At the direction of the Board, Stadium Authority staff has included responses to those questions as part of this report (Attachment 10).

DISCUSSION

The Stadium Authority FY 2021/22 Budget includes key components such as the Executive Director's Transmittal Letter; Stadium Operating Budget, which includes a breakdown of the Stadium Authority's General and Administrative (G&A) costs; Shared Stadium Manager expenses; Debt Service budget; and the Capital Budget. In addition, staff included a glossary of financial terms used to facilitate understanding of the types of revenues, expenses, debt, and capital expenses.

In accordance with Sections 4.5 through 4.8 of the Management Agreement, ManagementCo submitted the operating, capital, and debt budget for the FY 2021/22 Stadium Authority Budget. Staff followed the approved budget development process outlined in the Stadium Authority Budget Policy in preparing the Proposed FY 2021/22 Stadium Authority Budget.

FY 2021/22 Budget Process

The goal of the budget development process is to allow the Budget to be presented to the Board and the public at one Special Meeting/Study Session and one Public Hearing before its final consideration for approval. The following summarizes the timeline of the budget:

- November 2020: Stadium Authority staff worked with ManagementCo to discuss the annual budget plan which included the dates that ManagementCo would provide all necessary documents as required by the Stadium Lease and Stadium Management Agreement. During this dialogue, a calendar of deliverables was agreed upon.
- January 2021: At least 45 days prior to the start of the fiscal year (January 29), ManagementCo provided annual documents as outlined in the Stadium Agreements, which were used in the Budget Development Process:
 - Stadium Operations and Management Plan (*Source: Stadium Management Agreement*)
 - Annual Shared Expense Budget with Five Year Projection (*Source: Stadium*)

Management Agreement)

- Annual Stadium Authority Operations Budget (*Source: Stadium Management Agreement*)
 - Annual Public Safety Budget (*Source: Stadium Management Agreement*)
 - Capital Expenditure Plan with Five-Year Projection (*Source: Stadium Management Agreement*)
 - Non-NFL Event Marketing Plan (*Source: Stadium Management Agreement*)
 - Public Safety Document Updates (*Source: Stadium Operations Agreement*)
- February 2021: Stadium Authority staff analyzed ManagementCo's budget submission including but not limited to the number of full-time equivalents (FTEs) recommended and related personnel costs as well as non-personnel costs. The Stadium Authority submitted a series of questions to ManagementCo on February 9, 2021 and received responses on February 19, 2021 as detailed in Attachment 7.
 - March 2021: Stadium Authority held a Study Session on March 9, 2021 and received questions and feedback from the public and Board. To complete the annual budget process, staff recommends that the Board take the recommended actions on March 23, 2021 to 1) Adopt the Santa Clara Stadium Authority Fiscal Year 2021/22 Operating, Debt Service, and Capital Budget as presented in this report; 2) Direct the Stadium Manager to provide a procurement plan and schedule of all the required repairs at the Stadium; 3) Direct the Stadium Manager to submit the budget to the Trust that is inclusive of the SCSA G&A budget of \$5.1 million to maintain compliance with Measure J; 4) Direct the Stadium Manager to respond to the questions outlined in the December 1, 2020 letter from Kenn Lee to properly close FY 2019/2020; 5) Delegate authority to the Executive Director to approve budget amendments that move funds in the Legal Contingency to Shared Expenses after the review of adequate documentation for costs from the Stadium Manager; 6) Take No Action on the 2021 Marketing Plan; and 7) If the Board wants to pursue an independent third-party consultant to review and assess the Non-NFL Events Marketing Plan, delegate authority to the Executive Director to conduct a competitive Request for Proposal, enter into an agreement for such services, and approve any budget amendments associated with this action. Staff will report on all actions related to this recommendation to the Board on a quarterly basis and at the time that the quarterly fiscal reports are issued.
 - March 16, 2021: The Stadium Authority and the Stadium Manager met and conferred in good faith to discuss the disagreements on Shared Expenses, SCSA G&A, and the Naming Rights Signage Project.

Action for Potential Disbursement of Public Funds: During the discussion of Shared Expenses, the Stadium Authority Treasurer offered to set up a monthly meeting to review supporting documentation to validate payroll and other costs for release of payment. The Stadium Manager requested that the Shared Expenses not associated with public works or prevailing wage be separated and included as part of the budget. Stadium Authority relayed that procurement compliance necessary to release public funds was beyond prevailing wage legal compliance and the Stadium Manager stated that it believed that it could present compliance procurement contracts for other services for disbursement of public funds. In response, the Stadium Authority has requested that this be provided for inclusion in this report, as this authority results in greater SCSA administrative efficiencies and lower G&A costs.

Action to Maintain Proposed SCSA G&A Budget: During discussion of the SCSA G&A, the Stadium Authority explained to the Stadium Manager that there is a significant workload with maintaining the volume of litigation, fiscal reviews, and current management issues. SCSA staff also noted that there are new Board referrals that require additional staffing resources, as they were not included in staff's estimates of time required for budgeting purposes. In addition, SCSA noted that staff are still reviewing the FY 2019/20 documents in the current year due to the Stadium Manager's late and incomplete submittal of supporting documentation and that review would no doubt carry into FY 2021/22. SCSA strongly believes that current levels of staffing are required to maintain the current and anticipated workload and compliance with Measure J.

During the meeting, it appeared that while the Stadium Manager had concerns with the amount of litigation expenses, comments were made that it was acknowledged that litigation expenditures could not be reduced given the ongoing litigation. This does not mean that there was agreement by the Stadium Manager, rather just that there was an acknowledgement of these expenditures and therefore it is recommended that they be maintained at current reflected amounts in the G&A budget.

Because of the Stadium Manager's role of submitting the budget to the Trust, staff recommends that the Board direct the Stadium Manager to include \$5.12 million of SCSA G&A in the budget submitted to the Trust.

Levi's Stadium Signage: The Stadium Authority and the Stadium Manager have agreed to continue discussions regarding the Naming Rights Signage Project and to bring back a proposal for the Board to consider later, if necessary.

Key Highlights for the Stadium Authority's FY 2021/22 Budget

The Proposed Fiscal Year 2021/22 Operating, Debt Service, and Capital Budget is being presented under unusual circumstances. During FY 2019/20, the Stadium Authority Board issued several Notices of Breaches and Default of the Management Agreement which prompted issuing a Notice of Termination and Default of the Management Agreement to the Forty Niners. Regardless of how the termination issues are resolved, the Stadium Authority budget must include repayment of the debt, funding an operating budget and capital investment in the stadium. Work on the budget is not intended as a waiver or release of the termination notice or any Stadium Authority rights and claims.

- Operating Budget

Revenues

The FY 2021/22 projected revenues of \$65 million include \$24.8 million in facility rent, \$23.7 million in stadium builder license (SBL) revenue, \$8.7 million in NFL ticket surcharge, \$7.2 million in naming rights revenue, and \$600 thousand in other revenues.

Expenditures

The proposed Operating Budget totals \$64.7 million and includes the Stadium Authority's share of

expenses covered under the Management Agreement in the amount of \$3.1 million. This amount is well below the submission from ManagementCo of \$11.3 million. On March 27, 2019, the Board 1) directed the Executive Director and Stadium Authority Counsel to make available for City record all contracts (copies of contracts that the Stadium Authority to the Stadium Manager and ticketed/non-ticketed non-NFL events) by April 12, 2019, 2) direct staff not to pay any additional invoices for services unless there is back up documentation of services rendered (contracts, invoices, bid documents, etc.) as well as being in compliance with State Law and City Code. Given that ManagementCo has not been able to comply with the Board direction by providing all required documents and complying with State Law and City Code, the recommended budget of \$3.1 million covers insurance costs only. It is anticipated that additional funding will be added as budget amendments during the year based on identified needs and actual activity, if proper backup documentation is received. There is \$8.1 million set aside in a Legal Contingency to cover these potential costs during the year. Staff recommends that the Board delegate authority to the Executive Director to approve budget amendments that move funds from the Legal Contingency to Shared Expenses after the review of adequate documentation for costs. If approved, reports on fiscal activity would be disclosed in the quarterly financial reports issued by SCSA staff.

The budget also includes \$5.12 million for the Stadium Authority's administrative oversight of the Stadium. The General and Administrative (G&A) portion of the budget reflects expenses considered to provide a base level of service to implement the Board's direction and oversight of the Stadium per the various authoritative agreements. Since the inception of the Stadium, more staff resources have been required to respond to ongoing litigation with ManagementCo, to advance the Board's directives, respond to public records requests, and provide the required general oversight, accounting, and efforts to mitigate undesirable impacts to neighborhoods resulting from events at the Stadium. The Stadium Manager is requesting a reduction to this budget; however, Measure J restricts the use of City funds to cover any Stadium related expenses; the Stadium Authority must cover all operating costs required to provide the required oversight. Because of the Stadium Manager's role of submitting the budget to the Trust, staff recommends that the Board direct the Stadium Manager to include \$5.12 million of SCSA G&A in the budget submitted to the Trust.

The budget also includes a Net Non-NFL loss of \$600 thousand for FY2021/22. This would be the third year in a row that Non-NFL events resulted in a loss. The first year of loss occurred in FY2019/20 totaling \$2.7 million. SCSA staff submitted questions to ManagementCo to address documentation on December 1, 2020 (Attachment 9). To date, SCSA has not received any answers. Staff recommends that the Board direct the Stadium Manager to respond to staff questions.

In addition, the proposed budget includes transfers out of \$41.3 million described below, \$3.4 million for SBL sales and services, \$1.6 million for utilities, \$425 thousand for ground rent to be paid to the City, \$232 thousand in Senior and Youth Fees paid to the City, and \$752 thousand in other costs.

The total transfer out of \$41.3 million includes a \$3.7 million transfer to the Capital Fund for future Stadium capital improvements and a \$37.6 million transfer to the Debt Service Fund.

- Debt Service Budget

The proposed FY 2021/22 Debt Service Budget of \$38 million (principal of \$24.9 million and interest of \$13.1 million) is based on the required debt service payments and anticipated excess

cash that can be used towards debt. Total outstanding debt is projected to decrease by \$28.2 million from \$294.6 million to \$270.9 million.

- Capital Budget

The table below summarizes the FY 2021/22 Capital Budget.

Expense Type	Proposed Budget (\$ millions)
New Capital Improvement Appropriations	\$3.4
Stadium Warranty Related Construction Carry Forward	\$1.5
Prior Year Appropriations Carryover to FY 2021/22	\$9.7
Total Capital Budget	\$14.6

Given the fact that almost no capital projects were completed by ManagementCo, there is serious and valid concern whether ManagementCo is able to complete the projects included in this budget. For the past two years, the Stadium Authority has raised this issue with ManagementCo to ensure the Stadium Authority’s asset is maintained in a sufficient manner and requested a procurement plan; however, the Stadium Manager has not been able to submit a procurement plan to demonstrate proper standard of care of the Stadium and complete projects funded by the SCSA. While the Capital Expenses are reflected in the budget, it’s recommended that the Board direct the Stadium Manager to present to the Board a procurement plan/schedule that demonstrates the ability to manage the Stadium with the proper standard of care and that addresses the highest priority projects while balancing the potential need for City resources. Such plan should include a schedule for procurement and estimated time of presenting to the Board action to approve the procurements. While this presented a significant increase in workload for Stadium Authority staff, it is prudent given the multiple discoveries of the ManagementCo’s flawed procurement practices. This proposed recommendation serves many needed purposes: (1) standard of care is being maintained, (2) procurements are compliant with all local and state laws, (3) accountability to the SCSA Board of the approved CapEx budget, (4) SCSA agenda and workload management, given that meeting duration has been longer than usual and the ability for the Board to pace its work. After three years of non-performance with CapEx budgeted project, accountability of implementing the CapEx budgeted projects should be managed directly by the Board.

It should be noted, the Capital Expense budget does not include the Levi’s Naming Rights Signage Replacement Project totaling \$945,000 which includes a 5% contingency, as recommended by the Stadium Manager. The Naming Rights Agreement Section 5(f) states, “Naming Rights Sponsor shall be entitled, at its sole cost and expense, to replace, update, change, refresh or refurbish any such initial signage at any time and from time to time...”. Based on this language, it is the Stadium Authority’s position that the full signage replacement is the responsibility of the Naming Rights Sponsor and any effort to fund the replacement for the sponsors constitutes a gift of public funds. As already mentioned in this report, further discussion is required.

FY 2021/22 SOMP

In addition to the Annual Shared Stadium Expense Budget, the Annual Public Safety Budget, the Capital Expense Plan, and the Marketing Plan, the SOMP contains a plan for the operation and maintenance of Levi’s Stadium. The Stadium Lease and Management Agreement requires the

Stadium Manager to prepare the SOMP and present it annually to the Stadium Authority and StadCo for consideration and approval. Stadium Authority staff reviewed the SOMP and shared comments and proposed changes during the budget process, which the Stadium Manager responded to. However, at the time of writing this report, the Stadium Manager has not provided a final copy of the SOMP. Staff will review the final SOMP after it is received and approve it administratively if it sufficiently addresses the Stadium Authority's previous comments and proposed changes. The SOMP document does not require Board approval.

2021 Marketing Plan

The Draft 2021 Marketing Plan was discussed by the Board at a continued Study Session on March 10, 2021. A member of the Board expressed interest in having an independent third-party review and assess the Marketing Plan to ensure a turnaround strategy that would result in generating revenue for the Stadium Authority. The Board directed staff to ask the Stadium Manager if they would be interested in this option along with several other questions about the Marketing Plan. Stadium Authority staff transmitted the Board's questions to the Stadium Manager regarding the Marketing Plan as detailed in Attachment 8. Given the issues raised with the draft Marketing Plan, SCSA staff continue to recommend no action on the Marketing Plan.

Additional Detail on Stadium Manager Responses Received after Study Session

As detailed in Attachment 7, the Stadium Manager provided additional information in response to questions from the Stadium Authority. The following bullets summarize the continued questions and/or detail requested and the Stadium Manager response:

- Shared Expenses Forecast for FY 2020/21 - Stadium Authority questioned the difference in projections by category provided to Finance staff compared to what was submitted in the Stadium Manager proposed budget. Stadium Authority staff believe that the Stadium Manager projections in the budget reflect the latest savings. SCSA staff continue to be concerned about receiving conflicting data for information provided from the Stadium Manager. As part of the year-end process, staff will review actual Shared Expenses charged by category.
- Shared Expenses Review Process - The current process of reviewing information in person months after the end of the fiscal year is inefficient. The Stadium Manager provided no response. As noted above, as part of the Meet and Confer meeting with the Stadium Manager, the Treasurer provided a suggestion regarding the review of information on a monthly basis. The Stadium Manager responded that they would discuss this further internally and get back to the Stadium Authority.
- Procurement Compliance - The Stadium Authority has requested multiple times the plan for compliance for procurement, including prevailing wage requirements. The Stadium Authority has provided templates, sample contracts, sample RFPs, procurement resources, and met several times on procurement. The Stadium Manager acknowledges the need to comply, however, has not provided any detailed plan or timeline that would inform the Stadium Authority regarding resources that would be necessary to support this effort.
- Vaccine Response - The Stadium Authority is concerned regarding the validation of these additional costs and ensuring they are correctly allocated. We have received in writing from the Stadium Manager that these costs will be funded by the NFL. We will review these Shared

Expenses as part of the annual year-end process to make sure that no costs were assigned to the SCSA.

- SCSA G&A - The G&A portion of the budget reflects expenses considered to provide a base level of service to implement the Board's direction and oversight of the Stadium per the various authoritative agreements. Over the last year, the Stadium Authority has left two needed positions intentionally vacant to reduce costs, while these positions are needed for the increasing workload, existing staff have had to absorb the workload to reduce costs.
- Insurance Expenses - The Stadium Authority is concerned that the insurance costs billed by the Stadium Manager may be higher than actual costs. In previous meetings, Stadium Manager stated that over time the SCSA would receive the benefit of overpayment if insurances costs increased. However, SCSA has never received a reconciliation from the Stadium Manager to understand amount of overpayment and on reserve to cover years when insurance costs are greater than the amount paid by the SCSA. Accordingly, the Stadium Authority has recently requested a reconciliation from the Stadium Manager. but this has not been provided.

ENVIRONMENTAL REVIEW

The action being considered does not constitute a "project" within the meaning of the California Environment Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378(a)(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 proposed SCSA FY 2021/22 Budget includes \$65 million for Operating (includes \$41.3 million in transfers-out to Debt Service and Capital); \$38 for Debt Service (includes \$400 thousand funded by the Community Facilities District); and \$14.6 million for Capital (includes a \$9.7 million carryover from the prior year).

COORDINATION

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

PUBLIC CONTACT

On March 11, 2020 a notice of the public hearing was published in the Santa Clara Weekly.

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 <<mailto:clerk@santaclaraca.gov>>.

ALTERNATIVES

1. Adopt the Santa Clara Stadium Authority Fiscal Year 2021/22 Operating, Debt Service, and Capital Budget
2. Direct the Stadium Manager to provide a procurement plan and schedule of all the required repairs at the Stadium
3. Direct the Stadium Manager to submit the budget to the Trust that is inclusive of the SCSA G&A

budget of \$5.1 million

4. Direct the Stadium Manager to respond to the questions outlined in the December 1, 2020 letter from Kenn Lee
5. Delegate authority to the Executive Director to approve budget amendments that move funds from the Legal Contingency to Shared Expenses after the review of adequate documentation for costs
6. Take No Action on the 2021 Marketing Plan
7. If the Board wants to pursue an independent third-party consultant to review and assess the Non-NFL Events Marketing Plan, delegate authority to the Executive Director to conduct a competitive Request for Proposal, enter into an agreement for such services, and approve any budget amendments associated with this action. Staff will report on all actions related to this recommendation to the Board on a quarterly basis, as part of the quarterly financial report
8. Take any other Action the Board deems appropriate

RECOMMENDATION

Staff recommends Alternatives 1, 2, 3, 4, 5, 6, and 7:

1. Adopt the Santa Clara Stadium Authority Fiscal Year 2021/22 Operating, Debt Service, and Capital Budget
2. Direct the Stadium Manager to provide a procurement plan and schedule of all the required repairs at the Stadium
3. Direct the Stadium Manager to submit the budget to the Trust that is inclusive of the SCSA G&A budget of \$5.1 million
4. Direct the Stadium Manager to respond to the questions outlined in the December 1, 2020 letter from Kenn Lee
5. Delegate authority to the Executive Director to approve budget amendments that move funds from the Legal Contingency to Shared Expenses after the review of adequate documentation for costs
6. Take No Action on the 2021 Marketing Plan
7. If the Board wants to pursue an independent third-party consultant to review and assess the Non-NFL Events Marketing Plan, delegate authority to the Executive Director to conduct a competitive Request for Proposal, enter into an agreement for such services, and approve any budget amendments associated with this action. Staff will report on all actions related to this recommendation to the Board on a quarterly basis, as part of the quarterly financial report.

Reviewed by: Kenn Lee, Treasurer

Approved by: Deanna J. Santana, Executive Director

ATTACHMENTS

1. Proposed Santa Clara Stadium Authority Fiscal Year 2021-22 Operating, Debt Service, and Capital Budget
2. March 9, 2021 Agenda Report 21-401 Proposed Santa Clara Stadium Authority Fiscal Year 2021-22 Operating, Debt Service, and Capital Budget and Staff Presentation
3. March 9, 2021 Agenda Report 21-405 Draft 2021 Non-NFL Events Marketing Plan for Levi's Stadium and Staff Presentation
4. Annual Public Safety Budget
5. Stadium Authority Budget Policy
6. Stadium Authority Compliance and Management Policy
7. Stadium Authority Budget Submittal Questions and ManagementCo Responses to Questions
8. 2021 Marketing Plan Questions

- 9. December 1, 2020 Letter regarding FY2019/20 Non-NFL Event Documentation
- 10. Responses to SCSA Board Questions from March 9 and 10 Study Sessions