



## Agenda Report

21-1443

Agenda Date: 10/19/2021

### REPORT TO STADIUM AUTHORITY BOARD

#### SUBJECT

Report from the Stadium Authority Regarding the Stadium Manager's Request to Incur Charges for Various Conferences, Events, and Meetings

#### BOARD PILLAR

Ensure Compliance with Measure J and Manage Levi's Stadium

#### BACKGROUND

Through the Stadium Management Agreement, the Forty Niners Stadium Management Company (Stadium Manager) manages and operates Levi's Stadium on behalf of the Stadium Authority for Non-National Football League (Non-NFL) Events, like concerts, sporting events, and non-ticketed events. On behalf of the Stadium Authority, the Stadium Manager is responsible for the marketing and booking of Non-NFL events among other duties at Levi's Stadium.

The Stadium Manager is required to develop an annual Marketing Plan to outline the Stadium Manager's plans to develop, implement, and monitor marketing, booking, advertising and promotion of Non-NFL Events for Levi's Stadium. The Marketing Plan needs to be mutually agreed upon by the Stadium Manager and the Stadium Authority. On March 10, 2021, the Stadium Manager's Draft 2021 Non-NFL Events Marketing Plan (Marketing Plan) was discussed during a Study Session. The Draft 2021 Marketing Plan was reviewed against data results, alignment to the Management Agreement and Naming Rights Agreement provisions, and other key information. The Board took no action on the Draft 2021 Marketing Plan on March 23, 2021 when it was brought forth with the Stadium Authority FY 2021/22 Budget and Stadium Operation and Maintenance Plan for approval; instead, the Board delegated authority to the Executive Director to conduct a competitive Request for Proposal to pursue an independent third-party consultant to review and assess the Non-NFL Events Marketing Plan and enter into an agreement for such services. At the time of writing this report, staff is currently implementing a Statement of Qualifications (SOQ) process for that service and is in process of evaluating proposals.

Separately, on September 17, 2019, the Stadium Authority Board approved the introduction of Ordinance No. 2005, which rescinded the Executive Director's delegated purchasing authority and requires all contracts or agreements to acquire supplies, materials, equipment and services to require Board approval by amending Chapter 17.30 of the Santa Clara City Code. On October 8, 2019, the Board adopted Ordinance No. 2005, which became effective on November 8, 2019. As a result of the Board's revocation of the Executive Director's authority to procure good and services on behalf of the Stadium Authority as of November 8, 2019, the Stadium Manager must now seek approval from the Board and demonstrate that the Stadium Manager has properly and legally procured goods and services before contracts may be executed.

The Stadium Manager is requesting approval for the following marketing activities:

- October 21-22, 2021 VenuesNow Conference in Seattle, WA: Authorization to incur charges up to \$2,300 to cover registration fees, travel expenses and potential client entertainment for one Stadium Manager employee.
- November 2021 Billboard Live Music Summit + Awards in Los Angeles, CA: Authorization to incur charges up to \$4,550 to cover registration fees, travel expenses and potential client entertainment for two Stadium Manager employees.
- February/March 2022 Gridiron Stadium Network Annual Meeting in Austin, TX: Authorization to incur charges up to \$2,650 in order to cover travel expenses and potential client entertainment for two Stadium Manager employees.
- Client Meetings: Authorization to incur charges up to \$9,000 to cover travel and entertainment expenses for up to six client meetings.

Per the Stadium Manager, the cost for this activity will be charged to the FY 2021/22 Non-NFL Events budget (Public Events), Networking/Dues and Subscriptions/Event tickets line item.

#### **DISCUSSION**

Staff reviewed the Stadium Manager's email request and Business Expense Reimbursement Policy (attached to corresponding report #21-1442) and sent questions to the Stadium Manager for response. Staff requested clarification on the client entertainment that the Stadium Manager was planning since the Business Expense Reimbursement Policy's Business Entertainment section was very broad compared to Travel Expenses, which had some parameters for flights, hotels, and meals. Staff also shared that the Stadium Authority would not reimburse alcohol charges because that is not permitted as a general practice with the use of public funds. Such exchange of questions is standard practice while reviewing requests for procurement and/or funding.

The Stadium Manager's response is copied below:

*Entertainment for Public Event prospects/clients would typically involve 1-2 employees from the Stadium Manager and 1-4 attendees from the prospect/client. This would be in the range of \$100 per attendee for each entertainment event, and would often include a lunch/dinner at a higher end restaurant, or perhaps a less formal meeting for coffee or drinks. We strive to make the entertainment event attractive and unique for the prospect/client, so it really depends on what they are interested in.*

*Your comment that "Stadium Authority will not reimburse any alcohol charges" exhibits a lack of familiarity with the live event business: It would be very unusual to have a client entertainment event for decision makers in the live event industry that doesn't include beer/wine/spirits. This is typical in the sales industry generally. Often these prospects/clients are promoting events that are actually sponsored by companies in the beer/wine/spirits industry, and it would be counterproductive to invite a decision maker to an entertainment event and then tell them they need to pay for their own drinks.*

*It's also worth noting that the SCSA has covered the cost of beer/wine/sprits for prospects/clients in the past, and that has been a component of the success we have had in driving overall revenue, including \$500M+ in SBL sales.*

The Stadium Manager's response acknowledges that alcohol consumption is a part of the business marketing that they utilize to pursue Non-NFL events. While the use of public funds for alcohol consumption is generally not permitted by public agencies, the legislative body of the public agency can authorize this business expense. Therefore, there is an appropriate Board recommendation transmitted in this report to authorize the use of public funds to cover alcohol consumption as detailed in the documents submitted by the Stadium Manager. Further, the Stadium Authority should be covered for the risk or liability arising from auto accidents or other such losses occurring at any of these marketing events (including liability arising from consumption of alcohol) pursuant to the Indemnification Clause in Article 12 of the Management Agreement.

As the Stadium Manager's request pertains to marketing activities, staff also reviewed it against the Draft 2021 Marketing Plan. While the Draft 2021 Marketing Plan was not mutually agreed upon, it is the only document that the Stadium Authority has that outlines the Stadium Manager's planned marketing efforts. The requested marketing activity aligns to one of the key initiatives ("Utilize Marketing Budget to Regenerate Active Event Pipeline") the Stadium Manager identified in their Draft 2021 Marketing Plan. The Stadium Manager planned to prepare for the return to in-person events to build out new packages, create a strategic communications plan and reintroduce Levi's Stadium to local and national clients through a marketing campaign. It had planned to achieve this by utilizing a marketing budget to communicate its message through digital advertising, client/prospecting events, sales events/trade shows, and swag/gifts. The marketing activities which the Stadium Manager is requesting to incur charges for fall under the client/prospecting events and sales events/trade shows categories.

Based on this review, staff recommends approval of the request to incur charges for registration fees, travel expenses, and client entertainment, including alcohol, for the described conferences, events, and meetings. The Stadium Authority will require full supporting documentation before respectively releasing public funds upon procurement of registration fees, travel expenses, and client entertainment. 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 Non-NFL Events budget (Public Events) contains \$25,000 for Networking/Dues and Subscriptions/Event Tickets. There are sufficient funds to cover the Stadium Manager's request to incur up to \$18,500 for the conferences, events, and meetings.

**COORDINATION**

This report has been coordinated with the Chief Assistant City Attorney and Stadium Treasurer'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](mailto:clerk@santaclaraca.gov).

**RECOMMENDATION**

1. Approve the Stadium Manager's request to incur charges up to \$2,300 to cover registration fees, travel expenses and potential client entertainment, including the purchase of alcohol with public funds, for one Stadium Manager employee for the October 21-22, 2021 VenuesNow Conference in Seattle, WA;
2. Approve the Stadium Manager's request to incur charges up to \$4,550 to cover registration fees, travel expenses and potential client entertainment, including the purchase of alcohol with public funds, for two Stadium Manager employees for the November 2021 Billboard Live Music Summit + Awards in Los Angeles, CA;
3. Approve the Stadium Manager's request to incur charges up to \$2,650 in order to cover travel expenses and potential client entertainment, including the purchase of alcohol with public funds, for two Stadium Manager employees for the February/March 2022 Gridiron Stadium Network Annual Meeting in Austin, TX; and
4. Approve the Stadium Manager's request to incur charges up to \$9,000 to cover travel and entertainment expenses, including the purchase of alcohol with public funds, for up to six client meetings.

Prepared by: Christine Jung, Assistant to the Executive Director

Reviewed by: Deanna J. Santana, Executive Director