



Agenda Report

22-1441

Agenda Date: 12/6/2022

REPORT TO STADIUM AUTHORITY BOARD

SUBJECT

Report from the Stadium Authority for Action Regarding Stadium Manager's Request to Award Agreement to Fluoresco Services, LLC for Replacement Wayfinding Signage and Maps at Levi's Stadium (Updated Stadium Wayfinding Signage CapEx Project)

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approved Ordinance No. 2005 amending Chapter 17.30 of the City Code (Stadium Authority Procurement Policy), which rescinded the delegation to the Executive Director to enter into agreements without prior Board approval.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 (ManCo), 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 ManCo and the Stadium Authority.

The Stadium Manager is requesting approval for the following actions related to the Wayfinding Signage Capital Expense (CapEx) project:

1. Award a one-time agreement to Fluoresco Services, LLC in the amount of \$112,486 to replace existing signage with new wayfinding signage and maps at Levi's Stadium;
2. Authorize the Stadium Manager to execute any and all documents associated with, and necessary for the award, completion, and acceptance of this project; and
3. Authorize the Stadium Manager to execute change orders up to \$11,249 for a total not to exceed construction agreement amount of \$123,735.

The Stadium Authority Fiscal Year (FY) 2022/23 CapEx Budget includes \$262,500 for the Updated Stadium Wayfinding Signage line item.

DISCUSSION

Stadium Authority staff reviewed the Stadium Manager's Recommendation for Award memo, supporting documentation, and draft agreement (memo and draft agreement are attached to corresponding report #22-1440) for consistency against the Stadium Authority Procurement Policy

and the City's public works bidding process (City Charter Section 1310). The Stadium Manager's Request for Bids (RFB) received three responses and the Stadium Manager is recommending award to the lowest bidder (Fluoresco Services, LLC).

The Updated Stadium Wayfinding Signage CapEx Project includes the following description: "Design, furnish and install new wayfinding and information signage to include, but not limited to, new premium/club wayfinding, suite wayfinding, smoking section signs, no smoking signs for around the main and upper concourses, section numbers/floor decals, ADA accessibility signs, Tunnel signs that 'no photos/no autographs', etc." Not all of these sign categories were included in the RFB; however, the Stadium Manager has explained that they will not need any more funds for this particular project during this fiscal year.

Based on the documentation and information provided, staff recommends approval of the Stadium Manager's request to award a one-time agreement to Fluoresco Service, LLC. In regard to the Stadium Manager's request for authority to execute any and all documents related to the project and change orders be delegated instead to the Executive Director. Currently, the Executive Director has no procurement delegated authority under the Stadium Authority Procurement Policy. Approving staff's recommendation to provide the Executive Director with such authority to approve execution of any and all documents related the project and change orders up to \$11,249 accomplishes the expediency that the Stadium Manager seeks.

The Stadium Authority Counsel's Office has reviewed the requested agreement for comparison to the Stadium Authority's customary language. While there are some differences in the language, including portions covering compliance with laws such as prevailing wage and conflict of interest, the agreement submitted here for approval contains the necessary language which identifies these legal obligations to the vendor. The vendor expressly agrees to adhere to such obligations upon its execution of the agreement. Nothing in the proposed agreement changes the Stadium Authority's rights under the Management Agreement and specifically with respect to any dispute that may arise from the Stadium Manager's obligations under the Management Agreement.

In addition, per paragraph 4(b) of the Settlement Agreement, the Stadium Authority reserves all rights to confirm and dispute charges by and payments to the Stadium Manager during a fiscal year-end reconciliation/true-up, including but not limited to changes based on improper allocation, calculation, lack of support, or failure to comply with the Parties' contracts or California law. The Stadium Authority may raise related questions before the fiscal year-end reconciliation/true-up, which the Stadium Manager agrees to assess and respond to in good faith.

ENVIRONMENTAL REVIEW

The action being considered does 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.

FISCAL IMPACT

The Stadium Authority FY 2022/23 CapEx Budget contains \$262,500 for the Updated Stadium Wayfinding Signage line item. There are sufficient funds to cover the cost of the agreement (\$112,486), a 10% contingency for change orders (\$11,249) and the Stadium Manger's RFB advertisement in the San Jose Mercury News (\$285). On July 13, 2021, the Board approved the

award of purchase orders to San Jose Mercury News and Santa Clara Weekly for the Stadium Manager to publish legal notices for CapEx projects so that expense does not require further Board approval.

COORDINATION

This report has been coordinated with the City's Purchasing Manager, and the Stadium Authority Counsel and Treasurer's Offices.

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 award an agreement to Fluoresco Services, LLC in the amount of \$112,486 to replace existing signage with new wayfinding signage and maps at Levi's Stadium;
2. Authorize the Executive Director to approve the Stadium Manager's execution of any and all documents associated with, and necessary for the award, completion, and acceptance of the project; and
3. Authorize the Executive Director to approve the Stadium Manager's execution of change orders for the agreement up to \$11,249, for a total not to exceed construction agreement amount of \$123,735.

Reviewed by: Christine Jung, Assistant to the Executive Director

Approved by: Rajeev Batra, Executive Director