



Agenda Report

21-169

Agenda Date: 2/9/2021

REPORT TO STADIUM AUTHORITY BOARD

SUBJECT

Action on Agreement with Contractor Compliance and Monitoring, Inc. for Labor Compliance Consulting Services

BOARD PILLAR

Ensure Compliance with Measure J and Manage Levi's Stadium

BACKGROUND

On September 17, 2019, the Stadium Authority Board (Board) approved the introduction of Ordinance No. 2005, which rescinded the Executive Director's delegated signature authority on agreements for services and required Board approval of contracts or agreements, by amending Chapter 17.30 of the City of Santa Clara City Code (SCCC). As of the effective date of the Ordinance (November 8, 2019), all Stadium Authority contracts and agreements for services, supplies, materials, and equipment require approval of the Stadium Authority Board. In addition to Ordinance No. 2005, Stadium Authority staff complies with the procurement requirements outlined under Chapter 2.105 of the City of Santa Clara City Code.

Contractor Compliance and Monitoring, Inc. (CCMI) is a trusted legal and compliance partner to publicly funded construction projects. Founded in 2002, the firm is nationally renowned for its expertise in prevailing wage law and labor compliance programs. Unique among labor compliance vendors, the firm combines in-house legal counsel with an understanding of industry and government. CCMI's staff has more than 75 years of combined experience in public works contracting and the implementation of local, state, and federal prevailing wage requirements.

The core of CCMI's experience involves the monitoring of certified payrolls, including the proper use of wage determinations, compliance with overtime, weekend, shift and special wage requirements, as well as the proper use of required apprenticeship requirements. Their staff has been involved in over 1,000 audits-including both a "paper audit" of the certified payroll and related forms, as well as investigation of claims or charges of impropriety brought by third parties.

The Executive Director is requesting authorization to execute an agreement with CCMI for an amount not-to-exceed \$20,000 for labor compliance consulting services. The City of Santa Clara has a much larger agreement with CCMI with a maximum compensation amount of \$145,000. CCMI has agreed to extend the same terms and conditions, scope of work, and pricing to the proposed Stadium Authority agreement.

DISCUSSION

The Stadium Authority's Stadium Manager, Forty Niner Stadium Management Company LLC, engage in various public works projects throughout the fiscal year, which require prevailing wages to be paid

to workers under State law. As the Stadium Authority continues to provide oversight of the Stadium Manager's procurement activity, there is a need for labor compliance services to ensure that the Stadium Manager and its contractors are complying with local, state and federal prevailing wage laws and regulations.

During this fiscal year, at least one Stadium project has required such labor compliance services. In April 2020, the Stadium Manager notified the Stadium Authority of a recycled water line that ruptured underground beneath the structural slab inside the Stadium. Forty Niners SC Stadium Company LLC (StadCo), which leases Levi's Stadium, ultimately claimed the project as an emergency capital repair made by the Stadium's Tenant (StadCo) under the Stadium Lease Agreement and procured a contractor for the repairs.

The repair services did not require Board approval since they were claimed as StadCo's emergency repair. However, since the reimbursement of costs would come from Stadium Authority, Stadium Authority staff requested for and reviewed supporting documents that StadCo submitted for the project for prevailing wage compliance throughout the procurement and permitting process. On December 22, 2020, StadCo invoiced the Stadium Authority \$217,004 for the total cost of the repairs. Stadium Authority staff requested certified payroll records as supporting documentation from StadCo, which were submitted on January 21, 2021. CCMI's services are required to complete review of the certified payroll records before the Stadium Authority can proceed with reimbursing StadCo for the recycled water line repair costs. Staff is also aware of two additional forthcoming projects that the Stadium Manager has notified the Stadium Authority of and that may require prevailing wages and CCMI's services.

The Stadium Authority's agreement with CCMI includes an extensive scope of work relating to labor compliance, including but not limited to, providing advice on prevailing wage projects and issues, verifying contractors' eligibility to work, licenses, and other labor compliance requirements, certified payroll review, and responding to any inconsistencies on the part of contractors. CCMI's services will be used to support Stadium Authority with labor compliance monitoring and oversight.

This recommendation meets Section 2.105.330(e)(1) of the City's purchasing code that exempts following a competitive process when the service of a licensed professional is required. As discussed above, CCMI provides legal compliance services. Additionally, as mentioned above, CCMI agreed to extend the same terms and conditions, scope of work, and pricing to the Stadium Authority, which is allowed under Section 2.105.290(b)(3).

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

There are existing appropriations in the Stadium Authority FY 2020/21 Adopted Budget under the Operating Budget to cover the costs of Executive Director and Board directives.

COORDINATION

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

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. Authorize the Executive Director to execute an agreement with Contractor Compliance and Monitoring, Inc. in an amount not-to-exceed \$20,000 for labor compliance consulting services; and
2. Authorize the Executive Director to amend the agreement to increase maximum compensation by up to \$20,000 in the event additional services are required, not to exceed \$40,000 during the one-year term of the agreement, subject to the appropriation of funds.

Prepared by: Christine Jung, Assistant to the City Manager (Executive Director)

Approved by: Deanna J. Santana, Executive Director

ATTACHMENTS

1. Agreement with Contractor Compliance and Monitoring, Inc.