



Agenda Report

21-915

Agenda Date: 7/13/2021

REPORT TO STADIUM AUTHORITY BOARD

SUBJECT

Report from the Stadium Authority Regarding the Stadium Manager's Request for Approval to Award Purchase Orders to HD Supply Facilities Maintenance, LTD, Graybar Electric Company, Inc., Shred-it and Leverage FedEx Cooperative Agreement for Operational Goods and Services at Levi's Stadium

BOARD PILLAR

Ensure Compliance with Measure J and Manage Levi's Stadium

BACKGROUND

For background, the Stadium Manager's request is summarized in Report #21-925.

DISCUSSIONAs discussed in the corresponding report, the Stadium Manager originally only submitted the "Recommendation to Utilize Multiple Cooperative Agreements for Operational Needs at Levi's Stadium" memorandum without draft agreements. It is normal practice that agreements going to the Board for approval are attached as part of the corresponding agenda report. Upon the Stadium Authority's request, the Stadium Manager submitted draft purchase orders with the recommended vendors. The Stadium Manager further explained that the FedEx process for receiving discounted pricing is through their FedEx account profile because FedEx does not utilize purchase orders. Staff reviewed the purchase orders and cooperative agreements and noticed the cooperative contracts with HD Supply and Graybar include services as well as products. Services may have different requirements than a product purchase, such as a scope of work, the payment of prevailing wages, and different insurance requirements. Staff communicated these concerns to the Stadium Manager who confirmed that the purchase orders will be amended for the purchase of products only and submitted revised purchase orders reflecting such changes, thus addressing the Stadium Authority's concerns.

Stadium Authority staff reviewed the Stadium Manager's memorandum and drafts of the purchase orders to ensure compliance with appropriate Purchasing Sections under Chapters 2.105 and 17.30 of the Santa Clara City Code. Staff has been following the City Code provisions under Chapter 2.105 for consistency and to ensure that best practices in public sector procurement are being followed. As part of the review, aside from the issues described and addressed above, staff found one additional discrepancy. The request for HD Supply in the memorandum states that the term of the HD Supply agreement (or purchase order) will be for five years with an option to extend for two additional years whereas the final HD Supply purchase order only outlines a five-year term and a not-to-exceed amount of \$50,000 per fiscal year and an overall maximum not-to-exceed amount of \$250,000, which aligns with a five-year term with no extension options. As the Stadium Manager plans to use the purchase order upon Board approval, staff has updated the Stadium Manager's request accordingly to a five-year term purchase order with no options to extend the term.

Additionally, given that these are the first requests that demonstrate proper procurement procedures for public contracts for these goods and services, it is not known whether this is a reflection of the lack of maintain proper standard of care or if services were rendered in violation of state laws at the Stadium.

Stadium Authority staff recommends Board approval of the Stadium Manager's request. The Stadium Authority will require complete supporting documentation before releasing public funds upon procurement of the goods and services.

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(b)(5) in that it is a governmental organizational or administrative activity that will not result in direct or indirect changes in the environment.

FISCAL IMPACT

The Stadium Authority FY 2021/22 Budget contains a Legal Contingency for Shared Stadium Manager Expenses (Shared Expenses) such as Security, Stadium Operations, Engineering, Guest Services, and Grounds. The Stadium Authority Board delegated budget amendment authority to the Executive Director for Shared Expenses from the Legal Contingency as part of its March 23, 2021 approval of the FY 2021/22 Budget.

There are sufficient funds in the FY 2021/22 Legal Contingency to cover the not-to-exceed amount of \$115,000 for the first year term of the purchase orders with HD Supply and Graybar, the first ten-month term of the purchase order with Shred-it, and FedEx costs.

The Executive Director will approve a budget amendment to reallocate \$100,000 of funds from the Legal Contingency to the Shared Expense Engineering line item upon Board approval of staff's recommendations. As the Stadium Manager did not specify which line items the Shred-it and FedEx costs will be charged to, portions of these purchase orders may be expensed for Shared Expenses. The Executive Director will approve budget amendments for those portions, as necessary.

COORDINATION

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

RECOMMENDATION

1. Approve the Stadium Manager's request to award a five-year purchase order to HD Supply Facilities Maintenance, LTD, with the term ending on March 31, 2026, in an amount not-to-exceed \$50,000 per fiscal year, for a maximum not-to-exceed amount of \$250,000 over the term of the purchase order, for maintenance, repair, operating (MRO) supplies, and industrial supplies, subject

- to budget appropriations;
2. Approve the Stadium Manager's request to award a eighteen-month purchase order to Graybar Electrical Company, Inc., with the initial term ending on January 31, 2023, with options to extend for four additional one year terms, with the final term ending on March 31, 2026 if all options are exercised, in an amount not-to-exceed \$50,000 per fiscal year, for a maximum not-to-exceed \$100,000 for the initial term and a maximum not-to-exceed amount of \$250,000 for the extended term of the purchase order, for electrical, lighting, data communication and security products, subject to budget appropriations;
 3. Approve the Stadium Manager's request to award a ten-month purchase order to Shred-it, with the initial term ending on May 14, 2022, with an option to extend for two additional years as allowed under the agreement, with the final term ending in May 14, 2024 if all options are exercised, in an amount not-to-exceed \$10,000 per fiscal year, for a maximum not-to-exceed amount of \$40,000 if the two year option to extend is exercised, for document and media destruction services, subject to budget appropriations;
 4. Approve the Stadium Manager's request to leverage discounted pricing offered through the FedEx cooperative agreement for the term ending on April 27, 2025, in an amount not-to-exceed \$5,000 per fiscal year and a maximum not-to-exceed amount of \$25,000, for expedited mail, small ground freight, related products and services, subject to budget appropriations; and
 5. Authorize the Executive Director to approve and process the reimbursement of such costs upon receiving final invoices and supporting documentation from the Stadium Manager.

Prepared by: Christine Jung, Assistant to the Executive Director

Reviewed by: Deanna J. Santana, Executive Director