



Agenda Report

21-923

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 for CapEx Projects and Miscellaneous Goods and Services

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approved Ordinance No. 2005 amending Chapter 17.30 of the City Code (Stadium Authority Procurement Policy), which rescinded the delegation to the Executive Director to enter into agreements without prior Board approval.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

The Stadium Manager is requesting approval to award purchase orders to the following vendors for a Key Management System Capital Expense (CapEx) project and miscellaneous Non-NFL, CapEx, Stadium Operations, Guest Services, Engineering, and SBL Sales and Services-related goods and services:

Vendor	Goods/Service	Amount	Funding Source
All Things Meeting	Event attendance	\$1,250	Non-NFL Events Marketing
Santa Clara Weekly and San Jose Mercury News	Legal notice publications for public work bids	Not-to-exceed \$20,000	Individual CapEx projects
Hands Helping Hearts	CPR and First Aid training	\$1,709	Stadium Operations
Pixit	Lost and found system	\$2,099	Guest Services
Kelly-Moore	Paint	\$5,935	Engineering
Time Access Systems, Inc	Key management system	\$13,819	CapEx Line Item - Key Management System
Arata	Recycle compactor gear box parts and repairs	\$9,545	Engineering

California Mailing Services, Inc	Print and mail Stadium Builder License (SBL) delinquent notices	\$600	SBL Sales and Services
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Together, the Stadium Manager's request is for a not-to-exceed amount of \$54,957.

### **DISCUSSION**

Pursuant to City Code Section 2.105.280(b), purchases that are \$15,000 or less do not require competitive bidding. Notwithstanding, the Stadium Manager elected to competitively quote several of the recommended awards.

Pursuant to City Code Section 2.105.170(c)(5), the publication of legal notices are considered to be an idle act which means that competitive bidding would not be useful or produce any advantage to the Stadium Authority.

The Stadium Manager prepared and submitted a "Recommendation for Award for Miscellaneous Acquisitions of Goods and Services" memorandum, which is attached to the corresponding report (#21-906). The memorandum describes the requested goods and services and the procurement processes that were implemented in greater detail.

### **CapEx Projects**

On March 23, 2021, the Board approved the Stadium Authority FY 2021/22 Operating, Debt Service and Capital Budget (Budget), which included a Key Management System line item under the CapEx portion of the Budget. The following description was provided by the Stadium Manager for the line item: "This Key-Box system provides a full audit trail and real time reporting, detailing who has used each set of keys and when. Staff and vendors will become more accountable and will assist in return of keys at the end of each shift. This will reduce loss, damage and liability. The new system will be stationed in the 24/7 Security office." The Stadium Manager is requesting approval to award a purchase order with Time Access Systems, Inc. in the amount of \$13,819 for a Key-Box Automated Key System.

Additionally, the Stadium Manager is requesting to award purchase orders to Santa Clara Weekly and San Jose Mercury News to publish legal notices for public bids for public works projects, in an aggregate amount not-to-exceed \$20,000. The costs of the legal publications will be covered by the individual public works projects that are included in the Stadium Authority CapEx budget. While the Stadium Manager did not specify which CapEx projects they will publish legal notices for in Santa Clara Weekly or San Jose Mercury News, there should be sufficient funds for the Stadium Manager's projects in the FY 2021/22 Stadium Authority CapEx budget to cover the aggregate not-to-exceed amount of \$20,000 for the purchase orders.

As part of its March 23, 2021 Stadium Authority FY 2021/22 Budget approval action, the Stadium Authority Board directed the Stadium Manager to submit a procurement plan because of its inability to demonstrate (1) proper procurement for publicly funded contracts, (2) implement capital projects over the past fiscal years, and (3) whether proper standard of care for the facility is being maintained. As of July 5, 2021, the Stadium Manager has not complied with the Board's directive to provide a procurement plan.

### **Other Miscellaneous Goods and Services**

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The remaining goods and services being requested by the Stadium Manager are for Non-NFL, Stadium Operations, Guest Services, Engineering, and SBL Sales and Services. Together, these goods and services total \$21,138.

### **Staff Analysis and Recommendation**

Stadium Authority staff reviewed the Stadium Manager's memorandum and supporting documentation 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. The documentation looks in order; however, there are a few statements in the memorandum that require clarification.

The Stadium Manager noted in its Recommendation for Award memorandum that there is no fiscal impact on the Stadium Authority from this request as the costs for these goods and services are already included in the FY 2021/22 Stadium Authority Budget, which is incorrect. There will be a fiscal impact to the Stadium Authority if the Board approves the Stadium Manager's request as described in more detail under the "Fiscal Impact" section. The Stadium Manager also wrote that there is no need for the Stadium Authority Board to approve individual appropriations for each of these vendors because the costs are already included in the FY 2021/22 Stadium Authority Budget. However, the Board allocated Shared Stadium Manager Expenses (Shared Expenses) in a Legal Contingency, which several of the expenses are a part of, and authorized the Executive Director to approve budget amendments to move funds from the Legal Contingency to Shared Expenses after the review of adequate documentation for costs.

Aside from the clarifications provided above, 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 FY 2021/22 Stadium Authority CapEx budget includes \$21,000 for the Key Management System line item. There are sufficient funds to cover the cost of the Key-Box Automated Key System (\$13,819). While the Stadium Manager did not specify which CapEx projects they will publish legal notices for in Santa Clara Weekly or San Jose Mercury News, there should be sufficient funds for the Stadium Manager's projects in the FY 2021/22 Stadium Authority CapEx budget to cover the aggregate not-to-exceed amount of \$20,000 for the purchase orders.

The FY 2021/22 Stadium Authority budget has sufficient funds to cover \$1,250 for Non-NFL related expenses, as well as \$600 for SBL Sales and Services.

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

authority to the Executive Director for Shared Expenses from the Legal Contingency. There are sufficient funds in the FY 2021/22 Stadium Authority Legal Contingency to cover the remaining amount of \$19,288 for the Stadium Operations, Guest Services, and Engineering related goods and services described in this report. The Executive Director will approve a budget amendment to reallocate \$1,709 from the Legal Contingency to the Shared Expense Stadium Operations line item; \$2,099 from the Legal Contingency to the Shared Expense Guest Services line item; and \$15,480 from the Legal Contingency to the Shared Expense Engineering line item upon the Board's approval of staff's recommendations. These Shared Expenses along with the Non-NFL and SBL Sales & Services costs total \$21,138.

Altogether, the Stadium Manager's request is for a not-to-exceed amount of \$54,957.

### **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](mailto:clerk@santaclaraca.gov).

### **RECOMMENDATION**

1. Approve the Stadium Manager's request to award a purchase order to Time Access Systems, Inc. in the amount of \$13,819 for the Key Management System CapEx Project (Key-Box Automated Key System);
2. Approve the Stadium Manager's request to award purchase orders to Santa Clara Weekly and San Jose Mercury News in an aggregate amount not-to-exceed \$20,000 to publish legal notices for CapEx public works projects;
3. Approve the Stadium Manager's request to award purchase orders to All Things Meeting (\$1,250); Hands Helping Hearts (\$1,709); Pixit (\$2,099); Kelly-Moore (\$5,935); Arata (\$9,545); and California Mailing Services, Inc. (\$600) for various Non-NFL, Stadium Operations, Guest Services, Engineering, and SBL Sales and Services-related goods and services described in this report; and
4. 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