



Agenda Report

21-1109

Agenda Date: 8/24/2021

REPORT TO STADIUM AUTHORITY BOARD

SUBJECT

Report from the Stadium Authority Regarding the Stadium Manager's Request for Staffing Changes and Related Budget Amendment

BOARD PILLAR

Ensure Compliance with Measure J and Manage Levi's Stadium

BACKGROUND

Each year, Stadium Authority staff prepares, in coordination with the Forty Niners Stadium Management Company (Stadium Manager), the proposed Santa Clara Stadium Authority Operating, Debt Service, and Capital Budget (Stadium Authority Budget) for the Stadium Authority's twelve-month fiscal year (April 1 through March 31) in accordance with Article 4 "*Records, Accounts, Budgets, and Reports*" of the Management Agreement between the Stadium Authority and Stadium Manager. On March 23, 2021, the Stadium Authority Board adopted the Stadium Authority FY 2021/22 Budget.

The Stadium Manager is requesting approval of the following staffing changes, which total an estimated \$650,000 for FY 2021/22:

1. Adding a new Head of Public Ticketed Events position
2. Adding a new Director of Stadium Builder License (SBL) Information position
3. Adding a new Senior Financial Analyst position
4. Adding a new Director of Procurement position
5. Filling an Accounting Manager position and Staff Accountant position during FY 2021/22 Q2

As these positions were either not budgeted in the Stadium Authority FY 2021/22 Budget or were originally anticipated to be filled later in the fiscal year, a budget amendment is required if the Stadium Authority Board decides to approve the request.

DISCUSSION

After reviewing the original request, Stadium Authority staff sent questions to the Stadium Manager to understand their staff's current workload and responsibilities and the need for the proposed positions. The Stadium Manager's original request, which summarizes the proposed positions is attached to the corresponding agenda report (#21-1091). The Stadium Authority's questions about the requested staffing changes, the Stadium Manager responses, and staff's analysis are outlined below:

1. Adding a new Head of Public Ticketed Events position

Stadium Authority Q1. As part of the budget process, the Stadium Manager submitted a

budget that anticipated labor and staffing costs for the special events teams and other G&A staff working on Non-NFL events. Why was this position not included in the Stadium Manager's requested budget?

Stadium Manager Response to Q1. When the original FY 2021/22 budget was submitted in early 2021, the impact and timing of COVID restrictions were unclear. While the future is still not entirely clear, the situation has improved and the market is now seeing a significant increase in interest for major ticketed events.

Stadium Authority Q2. How was this work (e.g., outreach and contact with promoters, touring agents, and artist management to secure upcoming tour events) previously performed without this position?

Stadium Manager Response to Q2. Much of this work was handled by 49ers staff, typically at no charge to the SCSA.

Stadium Authority Q3. Please explain the net new impact of these responsibilities.

Stadium Manager Response to Q3.

- As explained in the document submitted a month ago, this position will allow us to book and execute ticketed NNE.
- More importantly, if this new position is unfilled we will be severely disadvantaged in booking and executing ticketed events.

Stadium Authority Q4. Why hire this position now after multiple years of loss? What will change?

Stadium Manager Response to Q4. This question is not relevant to the proposed Budget Amendment. Please refer to the mountain of prior correspondence with respect to NNE profitability.

Stadium Authority Q5. How does current marketing activity connect to the Head of Public Ticketed Events and existing responsibilities?

Stadium Manager Response to Q5. As in any sales process, marketing activity supports sales.

Stadium Authority Q6. The Stadium Manager projected a \$600,000 loss for FY 2021/22 before this request for budget amendments totaling ~\$650,000. Demonstrate how the addition of the Head of Public Ticketed Events position will pay off in terms of returns in revenue generating Non-NFL activity (meaning that, will this investment pay for itself and reduce the projected deficit?)

Stadium Manager Response to Q6.

- This comment by City Staff mixes apples and oranges. The ticketed NNE role is the only role that impacts Non-NFL Events.
- The \$650,000 cost estimate referred to in the proposed Budget Amendment represents

the additional cost of all six positions across all budget categories: SBL Sales & Services, Non-NFL Events, Other G&A, and Shared Stadium Expenses.

- As indicated in the proposed Budget Amendment, this position will primarily be focused on revenue generation for FY 2022/23 and beyond. Accordingly, this position will NOT reduce the projected deficit for FY 2021/22.

Staff's Analysis and Response: As part of the FY 2021/22 budget process, questions and responses were exchanged between the Stadium Authority and Stadium Manager regarding the budget submittal. On the NFL side, the Stadium Manager projected a FY 2021/22 budget that assumed all games would occur with 100% fan attendance and reaffirmed their assumption when Stadium Authority staff asked for an alternative scenario/projection given pending the COVID-19 vaccine rollout. Alternatively, on the Non-NFL side, the Stadium Manager projected a net shortfall that ranged from a loss of \$600,000 to \$0 due to COVID-19 impacts. When asked what expenditure changes/impacts are required to prevent losses in FY 2021/22 on both the Stadium Authority and Stadium Manager side, the Stadium Manager provided the following response:

"Although it is difficult to predict what kind of capacity we would be able to host for concerts, if we were able to reschedule the BTS concert (2 shows) at a close to full/full attendance, the NNE projection would be much closer to break event.

There are ongoing expenses associated with keeping the Non-NFL Event business alive during a period of short term revenue disruption. These costs are required to maintain a swift and healthy return of NNE business once State and County regulations allow. With a busy slate of events predicted for 2022 and 2023, it is vital we prepare for these events in FY 21."

Based on other regional large venues' event calendars (albeit arenas and not stadiums), concert and entertainment activity has already resumed in the Bay Area. At the time of writing this report, the:

- Oakland Arena had 12 concerts scheduled between September through December 2021 and eight concerts scheduled in 2022;
- SAP Center had 18 multi-day events scheduled between August and December 2021 and three events scheduled in 2022; and,
- Chase Center had 14 events scheduled between September through December 2021 and eight events scheduled for 2022.

In comparison, in late June the Stadium Manager shared a calendar of anticipated and booked Non-NFL events for 2021 and 2022 which reflected only two booked non-ticketed private events through March 2022 (one of which had only three attendees).

The Stadium Authority has consistently communicated the importance of booking revenue-generating events. While the proposed position appears to focus on that area of interest, it is also important to note that the Stadium Manager already has a "Ticketing Ops" eight team member division that is funded by the Stadium Authority Non-NFL Budget and which contains (Source: Stadium Manager's FY 2020/21 Year End Reconciliation Documentation):

1. SBL & Ticket Finance Coordinator,
2. Ticketing Coordinator,
3. Director of Ticketing,
4. Director of Ticketing & Public Events,
5. Manager of Ticketing,
6. Senior Manager of Levi's Stadium Ticketing & Strategy,
7. SR Manager, SBL & Ticket Finance, and
8. Ticketing Representative.

This information is inconsistent with the Stadium Manager's response that the responsibilities of the position are currently being performed by 49ers staff: as their own Stadium Manager FY 2020/21 Year End Reconciliation supporting documents show a Stadium Authority funded "Ticketing Ops" staff team to support these tasks. Given that there is an existing team of eight people, in addition to an unknown number of 49ers staff supporting Non-NFL ticketed events, it would not be fiscally prudent to add an additional Director position where there are already two Director positions and multiple Senior Managers.

The Stadium Manager has also previously described their staff engaging in marketing and sales outreach efforts to secure future bookings in the Draft 2021 Marketing Plan, such as implementing a prospecting campaign to increase their client base and performing client touchpoints to connect and build stronger relationships with clients during 2020. As it stands, those efforts have not translated to actual event bookings, as reflected by the quarterly report that was shared with the Stadium Authority in June 2021, and it is unlikely that one additional position would change the multi-year trajectory of negative financial performance.

After receiving the Stadium Manager's responses, the following remains unclear:

- 1) What is the cost benefit to the Stadium Authority for adding this position?
- 2) Why was this position not included in the Stadium Manager's proposed FY 2021/22 budget when the need to book events for 2022 and 2023 in FY 2021/22 was clearly anticipated during the budget process?
- 3) Why are 49ers staff performing this work, and knowingly commingling the separate agency duties, for Non-NFL related work?
- 4) How many 49ers staff are currently performing this work?
- 5) How much new booking activity is this position anticipated to generate in comparison to the current team's anticipated bookings?
- 6) Why can't the eight team members absorb these duties?

As these are significant pending issues, staff does not recommend approving this position until it receives additional information from the Stadium Manager that addresses these areas.

It must also be stated that this request is being made in the context of the Board having already terminated the Management Agreement. Ample evidence has been presented to the Board that the Stadium Manager has consistently booked events that do not financially benefit the Stadium Authority and there is no indication that new employees would not continue this trend. The Stadium Manager provides no data on how the addition of this position results in improved fiscal outlook for Non-NFL events.

Staff believes that a viable alternative to funding a new employee of a terminated management company would be to conduct a competitive process to contract with a professional event-booking organization that is not unduly influenced by other financial interests. This allows the Stadium Authority to use limited funds on an independent agency whose sole purpose is to book events, without the conflict of commingled work with the 49ers or any other past practices of eroding Stadium Authority revenues.

2. Adding a new Director of SBL Information position

Stadium Authority Q7. The request is based on an assumption that the Management Analyst is a filled position. The Stadium Authority Executive Director's Office has not hired a Management Analyst yet, so it is unclear why there is a claim to more work and, as a result, the need for this new position.

Stadium Manager Response to Q7. The Stadium Authority has already approved the new SBL Management Analyst position at City Hall at an annual cost of \$195,000. The fact that the position is not yet filled is irrelevant.

Stadium Authority Q8. Additionally, the Management Analyst position will focus on various Stadium Authority operations, not just SBLs. How does the Stadium Manager quantify the additional workload and requiring a new full-time position?

Stadium Manager Response to Q8. Whether the new position at City Hall is focused on SBLs or other issues, the fact remains that they will create a new workload in order to justify their \$195,000 cost. Accordingly, a new position at Stadium Manager is necessary to respond to that additional workload. Stadium Manager will charge its employees time to SBLs or other matters as appropriate.

Stadium Authority Q9. Who is currently responsible for reviewing, tracking and monitoring SBL requests and inquiries? How does this new position's responsibilities differ from theirs?

Stadium Manager Response to Q9.

- The requests from City Hall on SBL issues is currently handled by a combination of different staff at Stadium manager.
- The new position would be responsible for handling all such requests

Stadium Authority Q10. How has this work been performed before?

Stadium Manager Response to Q10.

- The requests from City Hall on SBL issues have been handled by a combination of different staff at Stadium Manager.
- The purpose of this new role is to create a single point of contact for these City Hall requests, and to prepare for the additional workload generated by the new City Hall position approved by the Stadium Authority.

Staff's Analysis and Response: As detailed in the Stadium Authority FY 2021/22 Budget, the

Stadium Authority's new Management Analyst position will support various SCSA projects and assignments, including SBLs document review, litigation support, public records requests, financial management system implementation, and contract/procurement activities. Since the FY 2021/22 budget adoption, the City Clerk's Office has transferred the California Public Records Act duties and increasing number of public records requests to the Executive Director's Office. As such, the new Management Analyst will assist with those efforts so that other professional staff can continue to focus on Stadium Authority directives.

Also, the Management Analyst position is a downgraded position that was approved by the Board more than one fiscal year ago and was not added due to fiscal prudence. Given the increased workload with support for Stadium Authority administrative responsibilities, a recruitment has been opened to fill the position, but it is not a correct correlation to assume it is to create more work for the Stadium Manager and the SCSA's growing workload required additional internal support.

In the area of SBLs, the Stadium Authority pays the Stadium Manager \$2 million annually to manage SBLs on its behalf. Over the course of the last year, Stadium Authority staff without any new staff resources (only a consultant), absorbed the digitization and development of the SBL database project, (requiring the scanning and organization of tens of thousands of hard copy SBLs), which was the consequence of the Stadium Manager's neglect to perform this expected task over the multi-year management of SBLs and annual payment of millions of dollars. In fact, after the completion of the SBL digitization project, the Stadium Manager requested the new SBL digital system from the Stadium Authority for their own use with managing SBLs.

Separately, as part of SCSA staff's regular review of new SBLs pending Executive Director approval, errors are often found and the SBLs are then sent back to the Stadium Manager for correction. Stadium Authority have already requested before for improved accuracy and due diligence prior to executing documents, but errors persist. It is important to note that SCSA staff has absorbed these additional projects and auditing Stadium Manager's work within existing staffing resources. Given that the Stadium Manager already has a SBL Sales team, made up of multiple staff and at the annual cost of \$2M, it is recommended that the team absorbs any potential workload, although not currently anticipated, that may result from the Management Analyst.

In addition to the reasons above, the proposal of two new positions (Director of SBL Information and Senior Financial Analyst) solely in response to a new Stadium Authority Management Analyst position that is focused on providing internal support is unwarranted. The requested information and follow up responses do not provide clear justification for the proposed positions and expenditure of public funds.

3. Adding a new Senior Financial Analyst position

Stadium Authority Q11. Who is currently responsible for assisting with the daily management of SCSA financial operations, preparing annual operating and capital budget, and responding to SCSA requests and inquiries?

Stadium Manager Response to Q11.

- Those responsibilities are currently handled by a number of different staff members; however, the additional paperwork, reports, inquiries and bureaucratic back and forth has increased significantly in recent years.
- But the important point is that this new position is intended to prepare for further increases in those types of requests from the new Management Analyst at City Hall, which is included in the FY2021/22 budget at a cost of \$195K.

Stadium Authority Q12. How does this new position's responsibilities differ from theirs?

Stadium Manager Response to Q12. See above.

Stadium Authority Q13. Please explain the need for an additional full-time staff whose responsibilities will focus on reviewing, tracking and responding to requests and inquiries from the Management Analyst position in Finance.

Stadium Manager Response to Q13. Again, we have no way of knowing exactly what type of paperwork your new position at City Hall will generate, but we assume it will be significant in order to rationalize the position's annual cost of \$195K.

Stadium Authority Q14. How does funding this position constitute work that is above and beyond what is funded through the Management Fee?

Stadium Manager Response to Q14. See above.

**When asked about what services are covered by the Management Fee, the Stadium Manager responded, "This question is not relevant to the proposed Budget Amendment. Please refer to Section 2.12 of the Management Agreement".*

Staff's Analysis and Response: See "Staff Analysis and Response" section under the Director of SBL Information position. Again, the Stadium Manager is requesting multiple staff positions because the Stadium Authority is now filling a vacancy that has been in place for more than one fiscal year (because of growing workload and a significant drop of City staffing resources). The planned new SCSA position is to provide support to the various new and existing initiatives, as well as the recent transfer of public records act requests and the significant reduction of capacity on the City side.

4. Adding a new Director of Procurement position

Stadium Authority Q15. Procurement has been an ongoing Stadium Manager responsibility that the Stadium Manager claims it has performed in compliance with all laws. Who has performed this task in the past?

Stadium Manager Response to Q15.

- In prior years, procurement was handled by a variety of staff; however, the process has become more cumbersome with the City's removal of the Executive Director's procurement authority, and the general confusion created by Ms. Santana and Mr. Doyle in the stadium

procurement area.

- City Staff has undeniably requested more paperwork on Stadium procurement. It would be unreasonable for City Staff to refuse to pay for the cost of the additional work they have requested.

Stadium Authority Q16. Why was this position not included in the Stadium Manager's requested budget?

Stadium Manager Response to Q16. In prior years, the 49ers covered 100% of the cost of several staff members who worked on stadium procurement. The 49ers have decided that is no longer appropriate.

Stadium Authority Q17. There is a vacant Procurement Manager position under Shared Expenses. How does this new position align with that vacant position? Doesn't it make sense to first fill the vacant position and then determine what additional resources are needed?

Stadium Manager Response to Q17. The Procurement Manager will report to the Director. It does not make sense to hire the Manager before the Director.

Stadium Authority Q18. Who performed these duties from the inception of the Agreement to current date? Why is this position needed now?

Stadium Manager Response to Q18. See above.

Stadium Authority Q19. What change of services, or compliance, will the Stadium Authority observe by the addition of this position?

Stadium Manager Response to Q19. Approval of this position is necessary to generate documentation requested as a result of the City's removal of the Executive Director's procurement authority.

Stadium Authority Q20. Please outline exact duties to understand the validity of adding this position.

Stadium Manager Response to Q20. The position will oversee the procurement of goods and services for Levi's Stadium.

Staff's Analysis and Response: Putting aside the fact that the Stadium Manager has not complied with state public contracting and procurement laws since the beginning of this engagement, including worker wage laws, it is important to note that the Stadium Manager has violated the provisions of our legal agreements by committing the Stadium Authority to expenditures prior to Board approval and by appointing an individual to this full-time position. Once again, this demonstrated disregard for the Board's authority and the agreement provisions for which they are legally bound to follow.

Additionally, the changes for preparing agreements for Board approval has been in place since

November 2019. The Stadium Manager has already experienced over one full fiscal year of such changes and as such, should have submitted the position during the normal budget process.

The responses provided by the Stadium Manager also do not explain whether the position will work on public works/CapEx projects. As previously shared with the Board, the Stadium Manager is significantly behind with its repair and maintenance obligations for the Stadium (as demonstrated with their low spend rate on CapEx projects and by various emergency repairs). As part of the Board's March 23, 2021 action to adopt the FY 2021/22 budget, the Board directed the Stadium Manager to provide a procurement plan and schedule of all the required repairs at the Stadium. Despite five months passing, the Stadium Manager has not responded to the Board's direction, nor has it demonstrated its ability to deliver public works/CapEx projects that are necessary to maintain the facility.

Approval of this proposed position should be dependent on whether it can implement the Board budgeted public works/CapEx projects and, once and for all, submit a procurement plan to demonstrate that the Stadium will be maintained with the proper standard of care required to uphold a world-class facility. Already, the Stadium Manager has emergency repairs that it is now passing on to the Stadium Authority for immediate action when it did not take any action over the years to address the Stadiums proper standard of care.

The addition of the position should only come with a strong commitment from the Stadium Manager to once and for all cure their procurement deficiencies and demonstrate proper standard of care for the facility while meeting all legal requirements, which they represented they could do in legal agreements with the Stadium Authority.

6. Filling an Accounting Manager position and a Staff Accountant position during FY 2021/22 Q2

Stadium Authority Q21. Who is currently responsible for reviewing SCSA transactions and ensuring that they are properly stated at ManCo? Why can't the current reviewer continue to perform those duties?

Stadium Manager Response to Q21. These two positions were already approved in the FY 2021/22 SCSA budget; all we are proposing now is accelerating their hire date to match the expected cadence of the Armanino work.

Stadium Authority Q22. What's the difference between what is going to be entered into the FMS vs. what is currently being entered into the existing FMS that would warrant new positions? SCSA does not want any new documents being created for the new FMS. All supporting documentation should be from the original source so any additional work would just be scanning original source documents into the FMS system.

Stadium Manager Response to Q22. These two positions were already approved in the FY 2021/22 SCSA budget; all we are proposing now is accelerating their hire date to match the expected cadence of the Armanino work.

Stadium Authority Q23. When did the Stadium Manager originally anticipate hiring these two

positions?

Stadium Manager Response to Q23. They were included in the FY 2021/22 budget assuming a start date in Q4.

Stadium Authority Q24. How does funding these positions constitute work that is above and beyond what is funded through the Management Fee?

Stadium Manager Response to Q24. See above.

Staff's Analysis and Response: The Stadium Manager states that these new positions were already included in the FY 2021/22 Budget and were originally budgeted to start in Q4. The Stadium Manager is proposing to fill the positions in Q2 (August 2021) to assist with the financial management system (FMS) implementation. Staff supports this recommendation, as the FMS is a priority for both the Stadium Authority and Stadium Manager. However, if the positions were performing normal accounting work as part of the normal course of operating and maintaining the Stadium, the Stadium Manager should cover the costs of the positions as part of the Management Fee. When asked what services are covered by the Management Fee, the Stadium Manager responded that the question was not relevant to the proposed Budget Amendment (request for staffing changes) and referred staff to Section 2.12 (Funding Limitations) of the Management Agreement.

Based on staff's current review of the Stadium Manager's FY 2020/21 Year End Reconciliation documents for Non-NFL events, the Stadium Manager is clearly engaged in account clean-up work dating back to 2014 which raises many questions about accounting in the past. Nevertheless, we support this reconciliation effort and new transparency; however, it should not come at the SCSA's expense and the Stadium Manager should make sure that new resources are only used for FMS implementation. At this time, it is unknown whether the significant clean-up effort underway is related to litigation, FMS, or any other effort.

For the reasons described above, staff recommends that the Stadium Authority Board take action to conditionally approve a budget amendment to fund the Accounting Manager and Staff Accountant positions to be filled during FY 2021/22 Q2. The Stadium Authority reserves all rights to recoup these costs and other costs based on Stadium Manager's breach, including any payments associated with the Financial Management System Implementation. As described under the Director of Procurement section, staff only recommends approval of the proposed position if the Stadium Manager is able to guarantee that the position can implement Board funded public works/CapEx projects, submit a procurement plan, and comply with all applicable laws.

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

Per the Stadium Manager, the estimated cost to implement these staffing changes is \$650,000 for FY 2021/22.

The Stadium Authority does not have the annualized cost for each position if the Board decides to take partial action on the request (i.e., approve some positions and not others). When Stadium Authority staff requested for this breakdown, the Stadium Manager responded that the information was confidential and would be provided through a separate meeting. Assuming these positions are hired in September 2021, halfway through the fiscal year, the estimated annual cost is approximately \$1.3 million. The Stadium Manager noted that the Head of Ticketed Events would be charged to Non-NFL Events, the Director of SBL Information would be charged to SBL Sales and Services, the Director of Procurement would be charged to Shared Stadium Expenses, and the Senior Financial Analyst, Accounting Manager and Staff Accountant would be charged to Other G&A. Shared Stadium Manager Expense costs covering operations are shared 50/50. Costs for the Accounting Manager and Staff Accountant are included in the FY 2021/22 Adopted Budget.

If the Stadium Authority Board acts on any portion of the request, including staff's recommendation, these costs will require a budget amendment. In such case, staff will meet with the Stadium Manager to view the approved positions' salaries and benefits to complete the budget amendment. As a result, staff recommends delegation of authority to the Executive Director based on the Board's approved position to review salaries and benefits costs to complete the budget amendment. Operating reserves would need to be used to offset the costs of the positions for SBL Sales and Services. Legal Contingency would be used to offset the cost of positions for Shared Stadium Manager Expenses.

COORDINATION

This report has been coordinated with 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 <<mailto:clerk@santaclaraca.gov>>.

RECOMMENDATION

1. Approve the Stadium Manager's request to add a Director of Procurement position, subject to guarantee from the Stadium Manager that Board approved public works/CapEx projects will be implemented, compliance with all applicable legal procurement requirements, direct the Stadium Manager to provide the costs of the approved staffing changes, and submit the Board directed procurement plan/schedule;
2. Approve the Stadium Manager's request to fill a budgeted Accounting Manager and budgeted Staff Accountant position during FY 2021/22 Q2 instead of Q4, and direct the Stadium Manager to provide the costs of the approved staffing changes with guarantee that these resources are not being used for the clean-up accounting activity that the Stadium Manager has underway which should have always been completed;
3. Delegate authority to the Executive Director to approve a budget amendment for the Stadium Authority Board approved positions based on a future review of salaries and benefits costs with the Stadium Manager; and
4. Direct staff to report back on a competitive process to contract with an independent professional event-booking contractor instead of funding additional 49ers organization employees for booking

Non-NFL events.

Prepared by: Christine Jung, Assistant to the Executive Director

Approved by: Deanna J. Santana, Executive Director