



## Agenda Report

21-1127

Agenda Date: 8/24/2021

### REPORT TO STADIUM AUTHORITY BOARD

#### **SUBJECT**

Report from the Stadium Authority Regarding the Stadium Manager's Request to Award Purchase Order to LRG Technologies, Inc. DBA Mobile Pro Systems for CCTV Pop Up Trailers CapEx Project, Execute Agreement with Plexus Global LLC for Employment Background Screening Services and Agreements with ACCO Engineered Systems, Inc and O.C. McDonald Co., Inc. for Mechanical and Plumbing Maintenance and Repair 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approved Ordinance No. 2005 amending Chapter 17.30 of the City Code (Stadium Authority Procurement Policy), which rescinded the delegation to the Executive Director to enter into agreements without prior Board approval.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, 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 for the following:

- Award a purchase order to LRG Technologies, Inc. DBA Mobile Pro Systems to purchase four Mobile Pro Falcon 3100 trailers, in the amount of \$209,702. The trailers are listed in the Stadium Authority FY 2021/22 CapEx budget as CCTV Pop Up Trailers;
- Execute an agreement with Plexus Global LLC for employment background screening services. The agreement is for a three-year term with options to extend two additional one-year periods (for a total of five years), and has a not to exceed amount of \$16,500 per contract year (for a total not to exceed amount of \$49,500 for the three-year term and \$82,500 for the five-year term if all extension options are exercised). Funding for contract years after FY 2021/22 is subject to the Board's approval as part of the annual budgeting process. Per the Stadium Manager, the cost for this service will be charged to the FY 2021/22 Budget, Shared Stadium Manager Expenses (Shared Expenses), Stadium Operations and Guest Services line items; and

- Execute agreements with two vendors, ACCO Engineered Systems, Inc and O.C. McDonald Co., Inc. for mechanical and plumbing maintenance and repair services. Each agreement is for a three-year term with options to extend for two additional one-year periods (for a total of five years), and has a not to exceed amount of \$250,000 per contract year (for a total not to exceed amount of \$750,000 for the three-year term and \$1.25 million if all extension options are exercised). Funding for contract years after FY 2021/22 is subject to the Board's approval as part of the annual budgeting process. Per the Stadium Manager, the cost for these services will be charged to the FY 2021/22 Budget, Shared Expenses, Engineering line item.

Chapter 17.30.070 states that, "Except for reserved purchase order numbers assigned by the purchasing officer, the purchasing officer shall not issue any purchase order or award any contract for supplies, materials, or equipment unless there exists an unencumbered appropriation in the proper account of the Stadium Authority to which the purchase is to be charged." However, the employee background screening does include language that total compensation shall not exceed \$16,500 per contract year and the agreement amounts are subject to budget appropriations. Similarly, the mechanical and plumbing service agreements include language that total compensation shall not exceed \$250,000 per contract year and the term for subsequent fiscal years is conditioned upon the Stadium Authority budget for the applicable fiscal year that include the amounts due under the agreements.

## **DISCUSSION**

Stadium Authority staff reviewed the Recommendation for Award memos, supporting procurement documents, and agreements for the three requests (these documents are attached to corresponding report #21-1085), and sent questions to the Stadium Manager for response. While the supporting documents for the requests were in order, staff requested clarification on the items below to ensure that NFL best practices were being met by the CCTV trailers, understand how employee background screening services were previously provided, and the Stadium Manager's usage of performance bonds and procurement approach for using the two mechanical and plumbing vendors, respectively. The Stadium Authority's questions and Stadium Manager's responses are outlined below:

### **Mobile Pro Falcon 3100 Trailers (CCTV Pop Up Trailer CapEx line item)**

- **Stadium Authority Q1.** We saw that the FY 2021/22 CapEx line item for this item included five trailers. Will we be able to meet NFL Best Practice guidelines with four trailers?

**Stadium Manager Response to Q1:** Yes

- **Stadium Authority Q2.** Should we expect to see another budget request for a fifth trailer next fiscal year?

**Stadium Manager Response to Q2:** Perhaps - it will depend on the changing security landscape.

**Stadium Authority Final Comments:** Staff will note this as a potential CapEx project for FY 2022/23. The estimated cost per trailer was higher than expected as the Stadium Manager had originally anticipated to purchase five trailers under the budgeted amount of \$246,750.

### **Employee Background Screening Services**

- **Stadium Authority Q3.** Is this a new vendor for the Stadium and if so, what firm did the Stadium Manager use previously?

**Stadium Manager Response to Q3:** Yes - this is a new vendor. Prior background checks were performed by CYTE-M.

#### Mechanical and Plumbing Maintenance and Repair Services

- **Stadium Authority Q4.** We saw that the Stadium Manager requested performance bonds for 100% of the contract total. In general, performance bonds are not required for general services, can you clarify the purpose of the 100% performance bond?

**Stadium Manager Response to Q4:** Although performance bonds are not legally required, payment bonds are required by law for any contracts in excess of \$25,000. In most cases when a contractor requests a payment bond from its surety, it is also able to request a performance bond with minimal (or no) increase to the payment bond premium. As a result, the owner is able to benefit from the security of a performance bond for minimal extra cost. While a performance bond on a short, on-call repair project may not be necessary to secure the performance of the work by the contractor, the owner will benefit from other protections offered by a performance bond. For example, a performance bond secures the contractor's obligations under the contract, including, among other things, warranty responsibilities and defects in the work.

**Stadium Authority Final Comments:** Performance bonds are typically not required for general services and will raise the cost of the contract. However, the Stadium Manager included it as a requirement in the Request for Proposal process and noted that it will secure the contractor's obligations under the contract which provides more protections like warranty, etc.

- **Stadium Authority Q5.** How will the performance bond be used for this type of general service?

**Stadium Manager Response to Q5:** See above.

- **Stadium Authority Q6.** How will the Stadium Manager select which vendor to perform the services?

**Stadium Manager Response to Q6:** Vendors will be selected for specific task orders based on their availability and expertise.

**Stadium Authority Final Comments:** It is recommended that the Stadium Manager's vendor selection process, which is described in detail under their response to Q6, include cost in addition to availability and expertise since the two vendors' expertise was already determined during the selection process. The Stadium Manager should consistently follow the recommended process to ensure that there is competition and the Stadium Authority receives the best pricing possible.

Staff has no additional comments regarding the Stadium Manager's responses to the other questions

and recommends approval of the purchase order and three agreements. The Stadium Authority will require full supporting documentation including compliance with prevailing wage laws, if applicable, before respectively releasing public funds upon procurement of the trailers and completion of work.

### **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**

The FY 2021/22 Stadium Authority CapEx budget includes \$246,750 for the CCTV Pop Up Trailers line item which the Mobile Pro Falcon 3100 Trailers fall under. There are sufficient funds to cover the cost of the four trailers (\$209,702).

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 \$516,500 for the FY 2021/22 Stadium Operations, Guest Services, and Engineering-related services described in this report. The Executive Director will approve a budget amendment to reallocate \$16,500 from the Legal Contingency to the Shared Expenses, Stadium Operations and Guest Services line items, and \$500,000 from the Legal Contingency to the Shared Expenses, Engineering line item upon the Board’s approval of staff’s recommendations. It is noted in the Plexus Global LLC agreement that the agreement amounts are subject to budget appropriations and the ACCO Engineered Systems, Inc. and O.C. McDonald Co., Inc. agreements that the term for subsequent fiscal years are conditioned upon the Stadium Authority budget for the applicable fiscal year that includes the amounts under each agreement.

Combined, the CCTV Pop Up Trailers CapEx line item and Shared Expenses services total \$726,202 for FY 2021/22.

### **COORDINATION**

This report has been coordinated with the City’s Purchasing Manager, 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 LRG Technologies, Inc.

- DBA Mobile Pro Systems to purchase four Mobile Pro Falcon 3100 trailers (CCTV Pop Up Trailer CapEx line item), in the amount of \$209,702, and authorize the Executive Director to approve and process the reimbursement of such costs upon receiving final invoices and supporting documentation from the Stadium Manager;
2. Approve the Stadium Manager's request to execute an agreement with Plexus Global LLC for employee background screening services in an amount not to exceed \$16,500 per contract year (for a total not to exceed amount of \$49,500 over the initial three-year term), subject to budget appropriations for every contract year, and authorize the Executive Director to approve and process the reimbursement of such costs upon receiving final invoices and supporting documentation from the Stadium Manager;
  3. Approve the Stadium Manager's request to execute an agreement with ACCO Engineered Systems, Inc. for mechanical and plumbing maintenance and repair services in an amount not to exceed \$250,000 per contract year (for a total not to exceed amount of \$750,000 over the initial three-year term), subject to budget appropriations for every contract year, and authorize the Executive Director to approve and process the reimbursement of such costs upon receiving final invoices and supporting documentation from the Stadium Manager; and
  4. Approve the Stadium Manager's request to execute an agreement with O.C. McDonald Co., Inc. for mechanical and plumbing maintenance and repair services in an amount not to exceed \$250,000 per contract year (for a total not to exceed amount of \$750,000 over the initial three-year term), subject to budget appropriations for every contract year, and 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