



Agenda Report

18-572

Agenda Date: 5/8/2018

REPORT TO STADIUM AUTHORITY BOARD

SUBJECT

Action on the Terms for Assignment and Venue Agreements between Santa Clara Stadium Authority and Forty Niners Stadium Management Company for the College Football Playoff National Championship (Stadium Authority)

BACKGROUND

During the Study Session on April 25, 2018, the Santa Clara Stadium Authority (SCSA) Board requested formal approval of the SCSA's proposed terms for the Assignment and Venue Agreements between SCSA and the Forty Niners Stadium Management Company (ManCo) for the College Football Playoff (CFP) National Championship Game Agreement. CFP events will begin January 4, 2019, in both Santa Clara and San Jose, culminating with the game on January 7 at Levi's Stadium.

CFP announced Levi's Stadium as the host of the 2019 National Championship in November 2015. The Forty Niners Football Company LLC (Forty Niners) incorporated the Bay Area Host Committee in January 2018 to take on the rights and obligations of the 2019 College Football Playoff National Championship. Attached to this report are the Bay Area Host Committee Board of Directors, Executive Committee, and Advisory Committee (Attachment 1); the Advisory Committee for the College Football Playoff National Championship is still in development.

Staff is also providing the Bay Area Host Committee Articles of Incorporation (Attachment 2) to provide the SCSA Board with more complete information of the organization for which this event and obligations will be assigned. As stated, the Bay Area Host Committee is a California nonprofit mutual benefit corporation (501(c) 6) and can not operate with a deficit; the Forty Niners will be the Third Party Guarantor to backstop any shortfall associated with the event. Additional information is still outstanding regarding how funds to backstop the event will flow through this organization (e.g., line of credit, fund infusion, etc.).

DISCUSSION

During the April 24, 2018 Study Session (Attachment 3), Stadium Manager Jim Mercurio gave an overview of the CFP National Championship, both its history and overall scale expected for the January 7, 2019, game and related events (Attachment 4). SCSA staff followed with an overview of the public services necessary to support these events and staff's proposed terms for the SCSA Board to support (Attachment 5). SCSA staff also outlined the proposed Assignment Agreement and Stadium Venue Use Agreement that isolate the event's financial losses from the current Agreements.

The SCSA Board accepted staff's recommendation and directed staff to return for formal approval of the terms in order to isolate the expenses incurred along with CFP hosting duties. Specific terms proposed by SCSA for the Assignment Agreement are:

1. No financial losses (including all pre-, during- and after-event costs) to the Authority, with the Host Committee to pay all expenses of the event including but not limited to:
 - All **actual** public services/workforce costs (including all public safety costs, planning, traffic, and code enforcement) at up to double-time overtime rate on the event day.
 - All public service expenses for Non-Game Day events including all staff time leading up to the event and after the event.
 - All expenses not covered by permits.
 - Any costs associated with team stay at hotels that don't fit in "Game" definition.
2. Shared net income to SCSA, if applicable
3. Complete accounting of all revenue and expenses provided to SCSA, with SCSA right to an independent third party audit at no cost to SCSA, managed by SCSA Executive Director or SCSA Auditor:
 - Including but not limited to all financial information pertaining to the Venue Use Agreement, CFP National Championship Agreement, and any other vendor or related agreement or contract pertaining to the Game.

As stated, at the Study Session, the SCSA Board acknowledged the proposed terms by consensus, and further directed staff to prepare a report with options regarding an escrow account or other form of pre-payment for all expenses related to the CFP events, with the goal that neither the City's General Fund nor the SCSA budget advance payment of any funding for the public services necessary to support the CFP events.

Staff responded that it would attempt to configure an approach that fully or partially responds to the directive, acknowledging that there could be challenges given that the City serves as employer, not the SCSA. This is because City personnel costs to support Stadium events have to first be incurred in the City's General Fund to allow for proper accounting of employee benefits. All regular, full time City employees receive a CalPERS provided pension benefit as part of their total compensation package. SCSA is not a CalPERS agency and, therefore, Stadium event related personnel expenses are incurred by the City (and thus eligible for pension benefits) and then reimbursed by SCSA.

In July 2017, the City began tracking CFP related personnel expenses, and reimbursing the General Fund from the SCSA Budget. Once the SCSA Board approves the Assignment Agreement, scheduled for Council consideration for May 29, 2018, SCSA will invoice the Bay Area Host Committee for expenses incurred. Invoicing will continue on an ongoing basis, reducing the impact on the City's General Fund.

Similar to Super Bowl 50, the SCSA Board could direct staff to enter into an escrow agreement to hold funds for pre-payment; should ManCo agree, the two parties would have to enter the escrow agreement with the Bay Area Host Committee and the contracted public service providers to manage the funds and processes. The escrow would be subject to full audit by all parties, and would require multiple signatures for any transaction; there would also be management fees associated with the account. There is some concern from SCSA staff regarding the appropriateness of the City or SCSA managing non-public dollars; this option may prove to be more burdensome than advantageous and initial cost benefit analysis does not prove that escrow is a preferred option.

In lieu of escrow, and to resolve the concern expressed by the Board's directive, SCSA staff recommends a four party agreement between the City, SCSA, the Forty Niners and the Bay Area

Host Committee under which contracted public service agencies (e.g.: California Highway Patrol or Santa Clara County Sheriff's Office) would directly invoice the Bay Area Host Committee for all expenses related to CFP events, and the Host Committee would be obligated to directly pay those agencies rather than the City having the obligation to pay the agencies and then bill the Stadium Authority. As the City has law enforcement jurisdiction, the City would maintain public safety oversight over the contracted public services, similar to existing agreements. However, with this approach, the City's General Fund would not be the source of direct payment for third-party expenditures, nor would it temporarily front funds for future reimbursement.

On May 3, 2018, SCSA staff attended the CFP National Championship operations kickoff meeting at Levi's Stadium. At the meeting, ManCo shared that Levi's Stadium will host a College Football Bowl Game (formerly known as the Foster Farms Bowl) on December 31. For the period of November 30 through January 7, Levi's Stadium will host a total of six college or NFL football games in a span of six weeks (Attachment 6). Having the Assignment Agreement for the CFP events, with the specific terms proposed by SCSA, will help the City provide the public services expected by the Santa Clara community throughout this time period, but given that these events fall during the holiday season, it may prove a challenge without advanced planning.

FISCAL IMPACT

To clarify from the April 24, 2018 Study Session, the total projected financial losses for this event (\$12M - \$14M) are not all SCSA expenses and the detail of the losses has not been fully disclosed to staff. However, the estimates include expenses related to events and costs incurred by the Forty Niners and/or other partners to or sponsors of the National Championship events in both San Jose and Santa Clara. Based on the SCSA terms, there shall be no loss to the Stadium Authority or City for this event and shall share net income, if available, as based on SCSA audit.

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(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.

COORDINATION

This report has been coordinated with the Finance Department and City Attorney'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>> or at the public information desk at any City of Santa Clara public library.

ALTERNATIVES

1. Approve the terms proposed by the Santa Clara Stadium Authority Executive Director for the Assignment and Venue Agreements for the CFP 2019 National Championship Game Agreement as presented to the Board on April 24, 2018 and summarized in the above report.
2. Direct the Santa Clara Stadium Authority Executive Director to enter into an Escrow Agreement to guarantee pre-payment of all expenses for CFP events.
3. Direct the Santa Clara Stadium Authority Executive Director to pursue and enter into a four party agreement to allow contracted public service providers to directly invoice the Bay Area Host Committee for all CFP related expenses.
4. Any other action by the Stadium Authority Board.

RECOMMENDATION

Alternatives 1 and 3:

1. Approve the terms proposed by the Santa Clara Stadium Authority Executive Director for the Assignment and Venue Agreements for the CFP 2019 National Championship Game Agreement as presented to the Board on April 24, 2018 and summarized in the above report; and
3. Direct the Santa Clara Stadium Authority Executive Director to pursue and enter into a four party agreement to allow contracted public service providers to directly invoice the Bay Area Host Committee for all CFP related expenses.

Reviewed by: Walter C. Rossmann, Chief Operating Officer

Approved by: Deanna J. Santana, Executive Director

ATTACHMENTS

1. Bay Area Host Committee Board and Committee Members List
2. Bay Area Host Committee Articles of Incorporation
3. April 24, 2018 Stadium Authority Study Session: 2019 College Football Playoff National Championship at Levi's Stadium
4. April 24, 2018 Stadium Authority Study Session Presentation by Forty Niners Stadium Management Company
5. April 24, 2018 Stadium Authority Study Session Presentation by Stadium Authority Staff
6. Levi Stadium Events Calendar