



## Agenda Report

22-1417

Agenda Date: 12/6/2022

### REPORT TO STADIUM AUTHORITY BOARD

#### **SUBJECT**

Report from the Stadium Authority for Action Regarding Stadium Manager's Request to Award Agreement to Bear Electrical Solutions, Inc. for the Broadcast Booth Power CapEx Project and Related Budget Amendment

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approved Ordinance No. 2005 amending Chapter 17.30 of the City Code (Stadium Authority Procurement Policy), which rescinded the delegation to the Executive Director to enter into agreements without prior Board approval.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

The Stadium Manager is requesting approval for the following actions related to the Broadcast Booth Power Capital Expense (CapEx) Project:

1. Award a one-time agreement to Bear Electrical Solutions, Inc. in the amount of \$28,800 to implement supplemental lighting power and controls in the broadcast booth at Levi's Stadium;
2. Approve a budget amendment to increase the total budget amount for this CapEx project by \$39,893, from \$17,000 to \$56,893. The Stadium Authority FY 2022/23 CapEx Budget includes \$17,000 for the Broadcast Booth Power CapEx line item;
3. Authorize the Stadium Manager to execute any and all documents associated with, and necessary for the award, completion, and acceptance of the project; and
4. Authorize the Stadium Manager to execute change orders up to \$2,880, for a total not to exceed construction agreement amount of \$31,680.

The proposed budget amendment will cover the costs of the one-time agreement (\$28,800), a 10% contingency for change orders (\$2,880), HKS Architects task order (\$24,350), City of Santa Clara permit fees (\$622), and San Jose Mercury News publication fees (\$241).

**DISCUSSION**

Stadium Authority staff reviewed the Stadium Manager's Recommendation for Award memo, supporting documentation, and draft agreement (memo and draft agreement are attached to corresponding report #22-1416) for consistency against the Stadium Authority Procurement Policy and the City's public works bidding practices (City Charter Section 1310). The Stadium Manager's Request for Bids (RFB) received two responses and the Stadium Manager is recommending award to the lowest bidder, Bear Electrical Solutions, Inc.

Based on the documentation provided, staff recommends approval of the Stadium Manager's request to award a one-time agreement to Bear Electrical Solutions, Inc. in the amount of \$28,800 for the Broadcast Booth Power CapEx Project and approval of a budget amendment to increase the existing line item in the Stadium Authority FY 2022/23 CapEx Budget by \$39,893.

The project is a carryover from the FY 2019/20 CapEx Project, which included \$36,750 for the line item. The Stadium Manager explains in their Recommendation for Award memo that they utilized an existing agreement with HKS Architects, Inc., which was approved by the Stadium Authority Board on November 9, 2021, for design work related to the project. However, due to timing issues with progress billing from HKS Architects, the Stadium Manager decreased their budget request for the project in the FY 2022/23 CapEx Budget. The Stadium Manager received Board approval on July 13, 2021 to publish legal notices in the San Jose Mercury News and Santa Clara Weekly for various solicitations.

Regarding the Stadium Manager's request for authority to execute any and all documents related to the project and change orders, staff recommends that the authority be delegated instead to the Executive Director. Currently, the Executive Director has no delegated authority under the Stadium Authority Procurement Policy. Approving staff's recommendation to provide the Executive Director with such authority to approve the execution of all documents related to the project and change orders up to \$2,880 accomplishes the expediency that the Stadium Manager seeks.

The Stadium Authority Counsel's Office has reviewed the requested agreement for comparison to the Stadium Authority's customary language. While there are some differences in the language, including portions covering compliance with laws such as prevailing wage and conflict of interest, the agreement submitted here for approval contains the necessary language which identifies these legal obligations to the vendor. The vendor expressly agrees to adhere to such obligations upon its execution of the agreement. Nothing in the proposed agreement changes the Stadium Authority's rights under the Management Agreement and specifically with respect to any dispute that may arise from the Stadium Manager's obligations under the Management Agreement.

In addition, per paragraph 4(b) of the Settlement Agreement, the Stadium Authority reserves all rights to confirm and dispute charges by and payments to the Stadium Manager during a fiscal year-end reconciliation/true-up, including but not limited to changes based on improper allocation, calculation, lack of support, or failure to comply with the Parties' contracts or California law. The Stadium Authority may raise related questions before the fiscal year-end reconciliation/true-up, which the Stadium Manager agrees to assess and respond to in good faith.

**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.

**FISCAL IMPACT**

As noted above, the FY 2022/23 CapEx Budget contains \$17,000 for the Broadcast Booth Power CapEx Project. The Stadium Manager’s requests will require a budget amendment to increase the line item by \$39,893 to a total budget amount of \$56,893. The table below summarizes the budget amendment as discussed above:

CapEx Project	Adopted Budget	Increase/ (Decrease)	Amended Budget
Broadcast Booth Power CapEx Project	\$17,000	\$39,893	\$56,893
Capital Expense Reserve	\$3,168,756	(\$39,893)	\$3,128,863

**COORDINATION**

This report has been coordinated with the City’s Purchasing Manager, Stadium Treasurer’s and Stadium Counsel’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 a budget amendment for the Broadcast Booth Power line item in the Stadium Authority FY 2022/23 CapEx Budget to increase the budget by \$39,893 from the Capital Expense Reserve;
2. Approve the Stadium Manager’s request to award an agreement to Bear Electrical Solutions, Inc. in the amount of \$28,800 to implement supplemental lighting power and controls in the broadcast booth at Levi’s Stadium for the Broadcast Booth Power CapEx Project;
3. Authorize the Executive Director to approve the Stadium Manager’s execution of any and all documents associated with, and necessary for the award, completion, and acceptance of the project; and
4. Authorize the Executive Director to approve the Stadium Manager’s execution of change orders for the agreement up to \$2,880, for a total not to exceed amount of \$31,680.

Reviewed by: Christine Jung, Assistant to the Executive Director

Approved by: Rajeev Batra, Executive Director