



Agenda Report

22-1445

Agenda Date: 12/6/2022

REPORT TO STADIUM AUTHORITY BOARD

SUBJECT

Report from the Stadium Authority for Action Regarding Stadium Manager's Request to Issue Purchase Orders to Benjamin Litho, Inc. for Printing and Mailing 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approved Ordinance No. 2005 amending Chapter 17.30 of the City Code (Stadium Authority Procurement Policy), which rescinded the delegation to the Executive Director to enter into agreements without prior Board approval.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 Stadium Manager.

The Stadium Manager is requesting approval for the following actions:

1. Issue a purchase order to Benjamin Litho, Inc. in an amount not to exceed \$9,300 inclusive of postage fees and applicable sales tax to print and mail out 2023 Stadium Builders License (SBL) invoices; and
2. Issue a purchase order to Benjamin Litho, Inc. in the amount of \$1,080 inclusive of applicable sales tax and delivery to print tags for Guest Services for lost items and storage of patron owned items (e.g., strollers, wheelchairs, etc.) during events.

These costs are covered in the Stadium Authority Fiscal Year (FY) 2022/23 Budget SBL Sales and Service and Guest Services line items, respectively.

DISCUSSION

Staff reviewed the requests (attached to corresponding report #22-1444) for consistency with the Stadium Authority Procurement Policy and Santa Clara City Code Chapter 2.105.140(a) (Competitive Requirements for Purchases - Purchase Orders Under \$15,000). Since both requests are each less than \$15,000, no competitive procurement method was implemented.

Based on this review, staff recommends approval of the Stadium Manager's request to issue purchase orders to Benjamin Litho, Inc. for the described printing and mailing services.

The Stadium Authority Counsel's Office has reviewed the requested purchase order 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 purchase order 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 purchase order. Nothing in the proposed purchase order 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 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 Stadium Authority FY 2022/23 Budget contains \$2.1 million for SBL Sales and Service. There are sufficient funds to cover the purchase order in an amount not to exceed \$9,300 for printing and mailing services for the 2023 SBL invoices. The Stadium Authority is responsible for the full cost of these services.

The Stadium Authority FY 2022/23 Budget also contains Shared Stadium Manager Expenses (Shared Expenses) such as Security, Stadium Operations, Engineering, Guest Services, and Groundskeeping. Shared Expenses are split between the Stadium Authority and Forty Niners SC Stadium Company LLC per the Management Agreement. There are sufficient funds in the FY 2022/23 Guest Services line item to cover the printing and delivery of tags for Guest Services (\$1,080, of which the Stadium Authority is responsible for \$540).

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.

RECOMMENDATION

1. Approve the Stadium Manager's request to issue a purchase order to Benjamin Litho, Inc. in an amount not to exceed \$9,300 inclusive of postage fees and applicable sales tax for printing and mailing 2023 SBL invoices; and
2. Approve the Stadium Manager's request to issue a purchase order to Benjamin Litho, Inc. in the amount of \$1,080 inclusive of applicable sales tax and delivery for printing tags for Guest Services.

Reviewed by: Christine Jung, Assistant to the Executive Director

Approved by: Rajeev Batra, Executive Director