



## Agenda Report

19-366

Agenda Date: 4/30/2019

### REPORT TO STADIUM AUTHORITY BOARD

#### SUBJECT

Informational Report Transmitting Levi's® Stadium Manager Responses to Stadium Authority Board Inquiries

#### BACKGROUND

On June 8, 2010, the voters of the City of Santa Clara approved Measure J, which authorized the City to move forward with the development of a stadium suitable for professional football and other events. The Santa Clara Stadium Authority (Stadium Authority), a joint exercise of powers entity created through Government Code section 6500 et seq., is a public entity formed to facilitate the development and operation of the Stadium Project and to fulfill the mandates of Measure J. The seven elected members of the City Council serve as the governing board for the Stadium Authority (Board). The Stadium Authority Executive Director is the chief executive officer of the Stadium Authority and is responsible to the Board for the proper and efficient administration of all affairs of the Stadium Authority.

Through the Stadium Management Agreement (Management Agreement), the Stadium Authority has engaged the Forty Niners Stadium Management Company LLC (Stadium Manager) to provide management services for the Stadium, including overseeing the day-to-day operations and maintenance of the Stadium as well as the marketing and booking of Non-NFL Events.

Stadium Authority staff presented the Stadium Authority Financial Status Report for Quarter Ending September 30, 2018 to the Board on December 11, 2018. During their discussion of this report, the Board made the following inquiries related to the hosting of events at Levi's® Stadium:

1. Parking costs - can event day costs to park in parking lots be lowered?
2. Field Level Seats and Stadium Builder Licenses (SBLs) - why isn't the City/Stadium Authority receiving SBL revenue for the field level seats that were added in 2018?
3. Taylor Swift tickets - Explain why the public safety costs are almost the same since the number of tickets sold per night differs by approximately 21,000. How many tickets were given away? Were the tickets listed on Goldstar or other discount ticket sites?

#### DISCUSSION

Stadium Authority staff discussed the Board's questions regarding the Taylor Swift concerts with the Stadium Manager in December and January, and via email (Attachment 1). Stadium Authority staff did not consider the responses satisfactory to the Board's inquiries, and determined that transmitting the Stadium Manager's responses directly to the Board would be the most appropriate method of response. On March 15, 2019, Stadium Manager provided (Attachment 2) the following information:

**1. Parking costs - can event day costs to park in parking lots be lowered?**

**Stadium Manager Response:** We discussed this in our Quarterly Meeting with City Staff on 12.20.18. The issue was identified on the agenda as “Neighborhood Parking Protection”. Reducing the cost of parking would not be effective in achieving the desired outcome, and would likely adversely impact public transit ridership, resulting in more cars on the roads.

**Stadium Authority Staff Comment:** While this was discussed on the agenda referenced by the Stadium Manager, Stadium Authority staff is not aware of the “desired outcome” referenced by the Stadium Manager nor of any potential adverse impacts from lowering the event day parking lot costs, and Stadium Manager has not provided any data or analysis to support this statement.

Stadium Authority staff will include review of parking lot event day costs, and options for changes, in the Stadium Authority FY 2019/20 Work Plan item: Public Safety Service Model - Neighborhood Protection.

**2. SBLs - why isn't the City/Stadium Authority receiving SBL revenue for the field level seats that were added in 2018?**

**Stadium Manager Response:** Please refer to the prior correspondence on this issue, including the letter from the NFL dated 2.25.19 confirming that the field seats are not permanent seats, and their use for NFL games must be approved by the NFL prior to each season.

**Stadium Authority Staff Comment:** When Stadium Authority staff inquired about these seats, Stadium Manager responded that the seats were subject to approval each year by the NFL and required annual approval through an application process. Stadium Authority staff requested in December 2018, and again during the budget development process, that the Stadium Manager provide a copy of the NFL application, NFL guidelines for the application, and other related documents, etc. to obtain approval from the NFL for the field seats. It should be noted that the Stadium Authority staff advised its concern that these tickets were being sold as season tickets. The only information provided is the attached letter from the Stadium Manager (Attachment 3), which is not responsive nor does it confirm an annual NFL application process.

As of March 26, 2019, the field level seats have been removed; City staff will not issue another permit related to these seats without, at minimum, the documentation requested by the Stadium Authority.

**3. Taylor Swift tickets - Explain why the public safety costs are almost the same since the number of tickets sold per night differs by ~21,000. How many tickets were given away? Were the tickets listed on Goldstar or other discount ticket sites?**

**Stadium Manager Response:**

- a. Public Safety Costs are primarily driven by law enforcement staffing costs from SCPD & SCFD.
- b. The number of attendees and the number of cars parked were similar for both Taylor Swift shows, which would explain why public safety costs for the two shows were similar.

- c. In accordance with the Event Contract, the promoter of the concert, Messina Touring Group LLC, sets the price of the tickets in its sole discretion. As indicated in the quarterly reports previously provided to the City, the promoter distributed approximately 20,000 complimentary tickets to targeted groups for the Friday 5.11.18 show. Targeted groups included military veterans, local universities, and local employers. The promoter did not offer tickets for sale on Goldstar, but there is often an active secondary market for tickets that is not controlled by the promoter.

**Stadium Authority Staff Comment:** Law enforcement costs are based upon the staffing levels necessary to support an event; staffing and deployment plans are developed based in large part upon the attendance estimates provided by the Stadium Manager. Had the promotor not provided 20,000 free tickets, the deployment would have been for a smaller scale event, and law enforcement expenses would have been adjusted accordingly.

Stadium Authority staff noted during the Fiscal Year 2019/20 budget process the issues and concerns related to free tickets or other promotions/giveaways. The Stadium Authority is reasonable in seeking data about this practice as it has direct financial consequences and, at the core, it is directly related to how the Stadium Manager books events and executes the contracts for them. Ultimately, the Stadium Manager is responsible for the activity of providing free tickets in mass to events, and at a cost to Stadium Manager, because of the contract provisions that it permits in executed agreements.

Following an April 4, 2019 article on TicketNews (Attachment 4), on April 8, 2019, Stadium Authority staff requested (Attachment 5) that Stadium Manager provide all supporting documentation within ten days, including an agreement with Mountain Winery, to leverage Taylor Swift attendance, as well as all other supporting documentation related to this non-NFL event that they may have not produced during the Stadium Authority's last inquiry.

On April 9, 2019 the Stadium Manager responded (Attachment 6) that the pricing and distribution of tickets for this event were decisions by the promoter, not by the 49ers or Stadium Manager, and that the Stadium Manager does not have "an agreement with Mountain Winery" for this or any other Non-NFL event. The Stadium Manager provided copies of emails where the promoter directed complimentary tickets to local businesses and charities. Stadium Manager requested that the Stadium Authority maintain the confidentiality of these communications with the promoter, stating that the public disclosure will further erode their ability to book events.

The Management Agreement states that the Stadium Authority will collect a surcharge of four dollars per ticket sold or otherwise offered to the general public.

12.1 Non-NFL Event Ticket Surcharge. The Stadium Authority (or, if the Stadium Authority exercises the Stadium Authority Put Right as provided in Paragraph 5.1, then, effective as of the Tenant Season Expansion Date, Tenant) will impose, and will require the promoter or sponsor of any Non-NFL Events to collect on its behalf, a surcharge of Four Dollars (\$4) per Ticket to all Non-NFL Events for which Tickets are sold or otherwise offered to the general public (the "Non-NFL Ticket Surcharge").

By allowing the promotor to distribute complimentary tickets to targeted groups, the Stadium Manager is preventing the Stadium Authority from collecting the surcharge. Based on a cursory review by staff, approximately 24,300 complimentary tickets were allocated to business and charities; approximately one third were given to charities.

Of the tickets given to businesses, approximately 2,000 were given to the Mountain Winery and 2,000 to Levi's Stadium Employees and Partners. Following this review, on April 11, 2019 Stadium Authority staff responded (Attachment 7) to the Stadium Manager stating that the distribution is beyond the "specific targeted groups" as characterized in the previous email sent to Stadium Authority staff on December 27, 2018. Stadium Authority staff further stated that the Stadium Authority is therefore entitled to receive and Stadium Manager shall pay the \$4 per ticket surcharge to the SCSA as required under paragraph 12.1 of the Amended and Restated Lease Agreement.

Additionally, on April 9, 2019 Stadium Authority staff requested that Stadium Manager provide all records (and/or instances) when Stadium Manager has used these types of promotions that result in free tickets with any other entity (such as Mountain Winery) and the amount of free tickets issues/granted per non-NFL event since the first date of operating as Stadium Manager at the Stadium. As of April 16, Stadium Manager has not responded to this request.

Staff will continue working with the Stadium Manager on these issues and will report back to the Board as information becomes available.

### **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**

There is no cost to the Stadium Authority other than administrative staff time and expense. The effectiveness of the Stadium Manager to manage Levi's® Stadium has a direct impact on the amount of Stadium Authority revenue, and the amount paid to the City's General Fund.

### **COORDINATION**

This report has been coordinated with the Stadium Authority Counsel.

### **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) <<mailto:clerk@santaclaraca.gov>> or at the public information desk at any City of Santa Clara public library.

### **RECOMMENDATION**

Note and file this report transmitting Levi's® Stadium Manager responses to Stadium Authority Board inquiries.

Reviewed by: Walter C. Rossmann, Chief Operating Officer

Approved by: Deanna J. Santana, Executive Director

**ATTACHMENTS**

1. Communications between Stadium Authority and Stadium Manager Regarding Taylor Swift Concerts
2. March 15, 2019 Stadium Manager Email to Stadium Authority
3. February 25, 2019 National Football League Letter to San Francisco 49ers
4. April 4, 2019 TicketNews Article
5. April 8, 2019 Stadium Authority Email to Stadium Manager
6. April 9, 2019 Stadium Manager Email to Stadium Authority
7. April 11, 2019 Stadium Authority Email to Stadium Manager