

STATUS OF HARVEY ROSE ASSOCIATES AUDIT RECOMMENDATIONS

1. COMPLIANCE WITH STADIUM AUTHORITY AGREEMENTS

Audit Recommendation	Current Status	Action Taken
1.A The Stadium Authority Board should direct the Executive Director to request the public safety costs threshold be adjusted through negotiations with StadCo to reflect actual costs to the City for providing public safety services for NFL events.	Partially Complete	This item is now in litigation and will be resolved through the legal system.
1.B The Stadium Authority Board should direct the Executive Director and Stadium Authority counsel to notify ManCo that the absence of five year capital expenditure plans for FYs 2014-15 and 2015-16 was a breach of Section 10.3 of the Stadium Lease and that ManCo is required to provide such plans under the lease for the current and all future Stadium Authority fiscal years.	Complete	ManCo has been providing a five-year capital expenditure plan since February 2017 and these plans were incorporated into the Stadium Authority's Adopted Budgets.
1.C The Stadium Authority Board should direct the Executive Director to provide a copy of the Operation and Maintenance Plan to the Stadium Authority Board for review, in closed session if deemed necessary for public safety reasons by the Stadium Authority counsel.	Complete	In accordance with Section 3.1 of the Stadium Operations Agreement, Section 4.5 of the Stadium Management Agreement, and Section 7.2 of the Stadium Lease Agreement, the 49ers Management Company (ManCo) is responsible for preparing the Stadium Operation and Maintenance Plan (SOMP). The SOMP consists of the Annual Shared Stadium Expense Budget, Annual Public Safety Budget and Capital Expenditure Plan, as well as the Annual Public Safety Budget and the Amortization of Public Safety Capital Expenditures. All documents have been presented to the Stadium Authority Board since March 13, 2018.
1.D The Stadium Authority Board should require that Stadium Authority staff and ManCo prepare an annual public safety budget in conjunction with the City's public safety departments detailing both NFL and non-NFL event public safety costs for submission to and adoption by the Board.	Complete	ManCo provided a Public Safety Budget to staff in February 2017 during the 2017-18 budget process. This was also provided to staff on February 7, 2018 as part of the 2018-19 budget process. The Public Safety Budget was included as part of the 2018-19 Adopted SCSA Budget that was presented to the Board on March 13, 2018. The SCSA Board approved the SCSA budget, comprising the SOMP, at the March 27, 2018 meeting.
1.E The Stadium Authority Board should direct the Executive Director to renegotiate provisions of the Stadium Lease so that the Stadium Authority receives a share of any concessionaire revenue that exceeds the minimum guaranteed amount from non-NFL events.	Partially Complete	The Stadium Authority does receive revenue in excess of minimum per Stadium Lease: 7.3.2 Concession Revenue. In February 2018, the SCSA Board approved a new concessionaire contract and included in that presentation was detail of how the SCSA receives revenue, including a portion that would be received in the General Fund as performance rent. The Board's request has been noted, however, SCSA staff continues to be challenged in receiving information at a level that details the exact line item amounts generated for Food & Beverage (F&B) revenue.
1.F The Stadium Authority Board should direct the Executive Director to notify StadCo that a formal consolidated draft parking plan must be produced and delivered to the Community Development Department and to the Board for review and approval as required under the Stadium Lease.	Partially Complete	Stadium Authority staff agreed with the audit that the information provided in the one page summary of parking lots in the TMOP was not adequate to determine the available and utilized parking facilities. Staff has also determined that the Stadium Manager requires additional information from the City regarding parking permit applications from property owners/operators not associated with Stadium Manager in order to provide a complete consolidated parking plan. City staff will have to determine what can be provided from permit applications, and whether any modifications to the City permit application are required, to provide the necessary information to the Stadium Manager to prepare a timely and complete consolidated parking plan as recommended by the audit. However, the information that the City will gather and share is also dependent on the Stadium Manager and off-site operators submitting their off-site parking applications by May 1 so that the staff has adequate time to review the applications and issue permits by July 1. In previous years, the Stadium Manager has not submitted all its off-site parking applications until after the pre-season has already started. Lastly, the consolidated draft parking plan should demonstrate how the Stadium Manager intends to provide at least 20,740 spaces in its annual parking program as required by P19 & P20 of the Development Permit.
1.G The Stadium Authority Board should direct the Chief of Police to present the public safety plan to the Stadium Authority Board for review and formal approval (in closed session if deemed necessary by Stadium Authority counsel) and to present any updates to the public safety plan to the Stadium Authority Board for review and documented adoption.	Complete	In light of recent national incidents and heightened focus on large crowds, it should be noted that the Plan is dynamic and will require adjustments to respond to various public safety conditions. The public safety plan has been approved and the Executive Director is in possession of a copy under lock and key. The Council can review this plan on an individual basis. In addition, Public Safety experts were contracted to review the current public safety model.

STATUS OF HARVEY ROSE ASSOCIATES AUDIT RECOMMENDATIONS

Audit Recommendation	Current Status	Action Taken
1.H The Stadium Authority Board should direct the Executive Director to formally notify StadCo that the total cost for stadium insurance must be disclosed in the shared stadium expenses budget pursuant to Section 4.6 of the Management Agreement and, based on the disclosure, consider proposing to StadCo an amendment to the Stadium Lease to remove the provision that the Stadium Authority pay a fixed amount of insurance costs, with StadCo paying an unknown amount.	Complete	Section 8.3.1 of the Stadium Lease states that the Stadium Authority Insurance Share shall be calculated as follows: (i) for the first lease year the Stadium Authority Insurance Share shall equal two million five hundred fifty thousand dollars (\$2,550,000) and (ii) on the commencement of the second and each succeeding lease year, the insurance shall be increased by three percent (3%). This fixed rate for insurance was included in the Facility Rent calculation as part of exhibit J and confirmed as part of the Rent Arbitration award. An amendment to the Management Agreement is not recommended at this time.
1.I The Stadium Authority Board should direct the Executive Director to formally notify StadCo and ManCo that ManCo is in breach of the Management Agreement because it did not furnish Annual Statements of Stadium Operations for FYs 2014-15 and 2015-16, and to require that such statements be provided for those years, for FY 2016-17 and each year thereafter.	Partially Complete	Section 8.3.3 of the Amended and Restated Stadium Lease states that the Landlord (Stadium Authority) shall furnish (or cause the Stadium Manager to furnish) to Tenant (StadCo) a statement for such Lease Year an Annual Statement of Stadium Operations prepared by a qualified, third-party independent certified public accountant (CPA) selected by Landlord (Stadium Authority) and approved by Tenant (StadCo). Stadium Authority staff is in the process of selecting a third-party CPA to prepare the Annual Statement of Stadium Operations and ManCo has been noticed that it has been in breach of the Management Agreement.
1.J The Stadium Authority Board should direct the Executive Director to send formal notification to ManCo and StadCo that ManCo was in apparent breach of the Stadium Lease requirement that a one year budget and five year projection of shared Stadium expenses be provided on an annual basis to the Stadium Authority and demanding that ManCo provide such budgets and projections for the current and all future years. The Executive Director should be directed to provide a written response to ManCo each year on the draft budget submitted by ManCo.	Complete	ManCo has provided a one year budget and five year projection of shared stadium expenses to staff since February 2017 and they have been incorporated into the Adopted SCSA Budgets. A written response to ManCo is provided, including in the Transmittal Letter of the SCSA Proposed Budget each year.
1.K The Stadium Authority Board should direct the Executive Director and Treasurer to work with ManCo to require that the annual operating budget and quarterly financial status reports disclose sufficient information to ensure that staff and the Board can determine whether the Stadium Authority is adhering to Stadium Lease requirements contained in Article 14 regarding the allocation of excess Stadium Authority revenue.	Complete	Article 14 of the Amended and Restated Stadium Authority Lease Agreement describes the steps if Stadium Authority Revenue exceeds Stadium Authority Expenses for any Lease Year prior to the Tenant Season Expansion Date. This information was included beginning in the Adopted 2018-19 SCSA Budget and subsequent quarterly reports. It should be noted that some of the information is limited due to the lateness of the receipt of information and/or limited by the data provided.
1.L The Stadium Authority Board should direct the Executive Director to notify ManCo that previous annual marketing plans were inadequate as they did not set forth reasonably detailed plans to develop, implement, and monitor marketing, booking, advertising, and promotion of non-NFL activities. The Board should further direct the Executive Director to notify ManCo that future marketing plans must include such details and be reviewed for sufficient detail by the Executive Director before being presented to the Board.	Complete	ManCo provided a Sales and Marketing Plan to staff in February 2017 during the 2017-18 budget process. This information was also provided in February 2018. Staff has worked with ManCo to provide a more robust marketing plan that was presented to the Board on March 13, 2018. As noted during the March 13th presentation, the agreement sets a "reasonable detail" standard which we believe the fiscal year 2018-19 plan reflects. The SCSA Board approved the Marketing Plan on March 27, 2018, but took no action on the Marketing Plan in March 2019. A revised Plan was received in February 2020, however, the proposed plan continues to demonstrate a failure by ManCo to strategize a plan for turning around the decline in revenues and contained limited strategies moving forward. The Plan proposed included the addition of a LinkedIn account and quarterly reports.
1.M The Stadium Authority Board should direct the Executive Director to confer with the Finance Director/Treasurer to determine what financial information would be necessary to assess non-NFL event financial performance, including incentive payments to ManCo, and then notify ManCo regarding what additional information will be required on an ongoing basis.	Complete	On October 2, 2018, staff presented the Financial Status Report for the Quarter and Fiscal Year Ending March 31, 2018 which included detailed information by type of event (i.e. concert, sporting events, and miscellaneous events) and by revenue and expense categories. Staff has notified ManCo/StadCo that this information will be required going forward in order to present to the SCSA Board as part of the fourth quarter status report. On December 17, 2019, as part of the Financial Status Report for the Quarter and Fiscal Year Ending March 31, 2019, staff presented revenue and expense information for each non-NFL event, clearly showing financial performance for each event.

STATUS OF HARVEY ROSE ASSOCIATES AUDIT RECOMMENDATIONS

Audit Recommendation	Current Status	Action Taken
1.N The Stadium Authority Board should direct the Executive Director to notify ManCo that it is in breach of Management Agreement Section 3.3, which requires that written revenue or other reports relating to non-NFL events be provided to the Stadium Authority within 45 days of each non-NFL event with attendance projected to exceed 25,000. The Stadium Authority Board should further direct the Executive Director to demand that ManCo provide such written revenue reports according to specifications to be detailed by the Treasurer for all future non-NFL events with attendance projected to exceed 25,000.	Complete	Section 3.3 of the Management Agreements states that the Stadium Manager shall furnish the Executive Director, within 45 days of each non-NFL event with attendance projected to exceed 25,000 and on a quarterly basis for all other events, such written revenue or other reports relating to non-NFL events as the parties may agree from time to time. While ManCo has begun complying with the basics of this requirement, the Stadium Authority would like more robust reporting and continues to communicate this to ManCo. The Stadium Authority does not receive a complete detailed set of information for events exceeding 25,000 within 45 days. For other events, this information is currently provided at the end of the year, not quarterly.
1.O The Stadium Authority Board should direct the Executive Director and Stadium Authority counsel to request an amendment to the Management Agreement that would require formal and/or informal bidding procedures for any transactions with ManCo affiliates or for transactions above a designated threshold to ensure that goods and services received from an affiliate of ManCo are competitively priced.	Complete	The Stadium Authority Board removed the procurement authority from the Executive Director. All subsequent transactions will need to be reported to the Stadium Authority Board directly by ManCo, or through a subsequent delegation of authority provided that all documentation is provided, and assurance that no conflict of interest occurred during the procurement process.
1.P The Stadium Authority Board should direct the Executive Director to direct ManCo to provide quarterly written reports to the Stadium Authority, to be maintained as permanent Stadium Authority records, detailing parking lot information as required in the first amendment to the management agreement.	Complete	Section 4.1 Off-Site Parking (First amendment to the Management Agreement) In accordance with Section 2.6.22 of the existing Management Agreement, the Stadium Manager shall have full authority and discretion to select the off-site private parking locations for Stadium Events, and to negotiate, approve, enter into and administer contracts with the private parking lot owners for the use of their parking spaces for all or certain of such Stadium Events which agreements may also make provision, to the extent available, for additional parking for surrounding properties that would be paid for by such properties (Private Parking Agreements). At the quarterly meetings (with the Executive Director) as described in Paragraph 3.3, the Stadium Manager shall report on the status of such Private Parking Agreements, the status of any ongoing negotiations with private parking lot owners, and the financial performance and other matters relating to the off-site private parking locations for Stadium Authority Events, and such other similar or other topics as the Stadium Authority may request. On October 18, 2018, the Executive Director requested in writing that the Stadium Manager begin providing written quarterly reports detailing parking lot information as required by the Management Agreement. ManCo has complied, and most recently, issued its report in November 2019.
1.Q The Stadium Authority Board should direct the Executive Director to require that all meetings, including the date and purpose of the meetings, between Stadium Authority staff and ManCo be documented and reported quarterly or annually to the Stadium Authority Board.	Complete	The Executive Director issued a quarterly report for the period April 1 - June 30, 2018 on July 17, 2018 and has continued to provide such a report at the completion of each quarter
1.R The Stadium Authority Board should direct the Executive Director to establish procedures to ensure that all existing plans, reports, and budget documents required to be provided by ManCo are provided to the Stadium Authority in the manner required by existing agreements. The Stadium Authority Board should further direct the Executive Director to report annually on the status (receipt, review, and approval status) of each required plan, report, and budget document.	Complete	Staff has prepared a schedule to track the deliverables. The required documents were provided to staff in February 2018 during the 2018-19 budget process as reported at the March 13, 2018 Stadium Authority Budget Study Session. For the March 2019 budget cycle, the Stadium Authority did not receive all information that was requested and publically stated what was missing.
2. STADIUM AUTHORITY REVENUES AND EXPENSES		
2.A The Stadium Authority Board should request that ManCo provide the relevant reports and documentation that back up the NFL ticket surcharge summary report in order to retain permanent verification of the accuracy of the surcharge calculated by ManCo.	Partially Complete	ManCo was notified in writing on October 9, 2018, to provide all relevant reports and documentation that back up the NFL ticket surcharge to the SCSA. StadCo responded on October 18, 2018 to affirm receipt of the letter and to notify staff that they are in the process of providing the requested documentation. As of this report, StadCo has not provided supporting documentation to back up the NFL ticket surcharge.

STATUS OF HARVEY ROSE ASSOCIATES AUDIT RECOMMENDATIONS

Audit Recommendation	Current Status	Action Taken
2.B The Stadium Authority Board should negotiate with ManCo to establish a level of detail regarding non-NFL event revenue and expenses that can be provided in City reports, public documents, and permanent records to be kept by the Stadium Authority without compromising ManCo's ability to book and negotiate deals with non-NFL event acts and performances. The Board should direct staff to include this level of detail for both budgeted and actual revenues and expenses in the annual proposed budget and the quarterly financial status reports to allow the Board and public to monitor the performance of non-NFL events and ManCo's performance in managing and executing the events.	Complete	On October 2, 2018, staff presented the Financial Status Report for the Quarter and Fiscal Year Ending March 31, 2018 which included detailed information by type of event (i.e. concert, sporting events, and miscellaneous events) and by revenue and expense categories. Staff has notified ManCo/StadCo that this information will be required going forward in order to present to the SCSA Board as part of the fourth quarter status report. On December 17, 2019, as part of the Financial Status Report for the Quarter and Fiscal Year Ending March 31, 2019, staff presented revenue and expense information for each non-NFL event, clearly showing financial performance for each event.
2.C The Stadium Authority Board should require that a detailed breakdown of performance rent calculations and payments to the City of Santa Clara be included in the budget and quarterly financial status reports using additional information provided by ManCo.	Complete	Performance Rent calculation was included as part of the Financial Status Report for the Quarter and Fiscal Year Ending March 31, 2019. In addition, staff presented revenue and expense information for each non-NFL event, clearly showing how financial performance for each event impacted the overall performance rent.
2.D The Stadium Authority Board should require that ManCo provide reports and documentation that can be kept in Stadium Authority records, consistent with confidentiality provisions in the agreements that back up the non-NFL ticket surcharge summary report in order to verify that the surcharge calculated by ManCo is accurate.	Partially Complete	SCSA staff reviewed the non-NFL ticket surcharge process with ManCo. However, as of this report, StadCo has not provided supporting documentation to support the non-NFL ticket surcharge. The Stadium Authority continues to seek source supporting documentation, rather than ManCo's reporting of ticket surcharge revenue. A protective order was issued by ManCo, limiting the release of documentation pending the outcome of current litigation.
2.E The Stadium Authority Board should require that a comprehensive accounting of Debt Service Fund transactions, including beginning and year-end balances, budget vs. actual revenues and expenditures by specific line item, and details on all transfers in and out of the fund, be presented in Stadium Authority budgets and financial status reports.	Complete	This information has been incorporated in the Stadium Authority's Adopted Budgets and Quarterly Financial Status Reports.
2.F The Stadium Authority Board should require that Discretionary Fund revenues, expenses, budget-to-actual comparisons, and account balances be reported in Stadium Authority budgetary documents separately from the Operating Fund.	Complete	The discretionary fund expenses and budget-to-actual comparisons have been reported to the SCSA Board beginning with the YE 3/31/15 Stadium Authority Financial Status Report that was presented on 8/18/15. The revenues that fund the discretionary fund and the account balance have been reported to the SCSA Board since the QE 6/30/16 Stadium Authority Financial Status Report that was presented on 8/23/16.
2.G The Stadium Authority Board should require that ManCo prepare the five year Shared Expense Budget, per the requirements in the Stadium Management Agreement, and the Board should direct the Executive Director to document receipt of the Shared Expense Budget, and provide written comments to ManCo in response to the proposed expenses.	Complete	ManCo has provided a one year budget and five year projection of shared stadium expenses to staff since February 2017 and they have been incorporated into the Adopted SCSA Budgets. SCSA continues to request supporting documentation for Shared Expense Budget, however, only receives a high level detail of the proposed expenses.
2.H The Stadium Authority Board, StadCo, and ManCo should amend the Management Agreement or separately establish binding policies that do not allow retroactive increases in authorized expenditures such as Stadium Manager expenses, and should require that detailed explanations be provided to the Board when additional funding is requested midyear in advance of such expenses being incurred.	Complete	SCSA staff has been proactive in bringing the budget adjustments to the Board before the expense is incurred. In addition, The SCSA Board adopted a Budget Policy on March 13, 2018 that requires that budget amendments are approved by the Board before the expense is incurred.

STATUS OF HARVEY ROSE ASSOCIATES AUDIT RECOMMENDATIONS

Audit Recommendation	Current Status	Action Taken
2.I The Stadium Authority should require that ManCo provide independently prepared reports and documentation to back up the number of NFL tickets sold for each fiscal year in order to verify that the senior/youth fee calculated by ManCo is accurate and to have a set of permanent records documenting the validity of this revenue.	Partially Complete	ManCo was notified in writing on October 9, 2018, to provide all relevant reports and documentation that back up the NFL ticket surcharge to the SCSA. StadCo responded on October 18, 2018 to affirm receipt of the letter and to notify staff that they are in the process of providing the requested documentation. As of this report, StadCo has not provided supporting documentation to back up the NFL ticket surcharge.
2.J The Stadium Authority Board and the City of Santa Clara should clarify when the City Purchasing Authority procurement thresholds (Santa Clara Municipal Code Chapter 2.105.070 et seq.) apply and when the Stadium Authority Procurement Policy thresholds (Santa Clara Municipal Code Chapter 17.30) apply.	Complete	The Stadium Authority Board removed the procurement authority from the Executive Director. All subsequent transactions will need to be reported to the Stadium Authority Board directly by ManCo, or through a subsequent delegation of authority provided that proper documentation was provided and that the procurement process was free of conflict of interest.
2.K The Stadium Authority Board should direct staff to prepare policies and procedures pertaining to all purchases made on behalf of the Stadium Authority to require a level of specificity in costs and services in all vendor contracts, that all invoices bill using the rates or unit costs specified in their contracts, and that the invoices and contracts be periodically reviewed by Stadium Authority staff.	Complete	The Stadium Authority Board removed the procurement authority from the Executive Director. All subsequent transactions will need to be reported to the Stadium Authority Board directly by ManCo, or through a subsequent delegation of authority provided that proper documentation was provided and that the procurement process was free of conflict of interest. As of February 2020, with the exception of several contracts executed for the Redbox Bowl, no further requests have been made.
2.L The Stadium Authority Board should require that budgets and actual expenditures for the Stadium construction budget be presented alongside the Stadium Authority Operating Budget to provide an accurate overall picture of purchases for all materials, services, and supplies for the Stadium.	Complete	The construction budget is shown in the Quarterly Financial Reports and Annual Budgets as part of the Capital Expense Budget. The remaining construction budget is designated for warranty related work. An audit of the construction fund has been procured and underway.
2.M The Stadium Authority Board should direct staff to report actual revenues and expenditures on an accrual basis in budgetary documents so that all amounts presented reflect actual results for the year, regardless of the timing of revenue receipt or expenses incurred.	Complete	The Stadium Authority's Third Quarter Financial Report presented to the Board on February 13, 2018 included adjustments to bring the budget to full accrual. The Adopted 2018-19 and 2019-20 SCSA Budgets were prepared using the accrual method of budgeting. In addition, accrual budgeting was included in the SCSA Budget Policy approved by the Board on March 13, 2018 as a requirement.
3. UNCLAIMED, UNREIMBURSED CITY STAFF COSTS		
3.A The Stadium Authority Board should request that staff prepare plans for reimbursement to the City's General Fund for unreimbursed staff costs from the appropriate source: Discretionary Fund, ManCo, or, to the extent funds are available and appropriate, the Construction Fund.	Partially Complete	Staff has self-corrected where it was clear that the General Fund was incorrectly charged for Stadium Authority staff time and the General Fund has been repaid in the amount of \$11,641. An outside auditor has been hired to determine if there is any additional corrective action required in relation to this recommendation. Outstanding reimbursements are subject to litigation (eg. public safety costs)
3.B The Stadium Authority Board should request that staff have ManCo prepare an annual comprehensive Public Safety budget, as required by the Stadium Lease, to include all components of Stadium public safety costs and reimbursement, including NFL public safety costs paid for directly by ManCo on behalf of StadCo, by the Stadium Authority from the Discretionary Fund, and any costs paid using other funds such as the Construction Fund.	Complete	ManCo provided a Public Safety Budget beginning in February 2017 and each year thereafter.

STATUS OF HARVEY ROSE ASSOCIATES AUDIT RECOMMENDATIONS

Audit Recommendation	Current Status	Action Taken
3.C The Stadium Authority Board should direct staff to develop specific definitions of which costs should be charged as overhead and which should be direct billed. Alternatively, staff should adjust the rate applied to direct billed staff costs from the current 10 percent to a more appropriate rate, and communicate to all staff which positions or activities will be charged as overhead.	Complete	Staff has been instructed to direct bill for all hours worked on Stadium Authority items. In reference to the overhead, staff hired a third-party consultant, Matrix Consulting Group, to prepare an updated Cost Allocation Plan ("CAP"). The consultant calculated the new overhead rate for the Stadium Authority to be 10.79%. The consultant calculated the new rate based on straight time salaries and benefits. The Stadium Authority began charging the updated rate effective at the beginning of the Stadium Authority 2019/20 fiscal year and the rate is only applied to straight time salary and benefits.
4. STADIUM PARKING REVENUE CONTROLS		
4.A The Stadium Authority should exercise its right stipulated in the agreement between master parking lot operator Citypark and ManCo to periodically audit the detailed records of individual parking lots for NFL and non-NFL events.	Complete	ManCo engaged the audit firm BDO USA, LLP to perform an audit of Parking and Concessions. City staff observed and assisted with the audit process at a Non-NFL event (Gold Cup on 7/26/17). Staff has received a copy of the final audit report that included several findings. ManCo is working with the Parking vendor (ImPark), Concessionaire vendor (Levy), and Merchandise vendor (Fanatics) on responses to the various audit findings and recommendations.
4.B The Stadium Authority Board should direct staff to report back on the advantages and disadvantages of adding City audit rights as a condition of granting parking permits.	Complete	Staff has included audit rights language as a condition of granting parking permits
4.C The Stadium Authority Board should direct staff to require that ManCo provide a written report on matters related to off-site parking operations at their quarterly meetings, requiring that baseline information be provided in a specific format.	Partially Complete	A letter was mailed on October 18, 2018 from the Executive Director to the Stadium Manager requesting that he provide written reports on parking location, capacity, and availability dates for large non-NFL events beginning with the next Quarterly Status Meeting scheduled for November 29, 2018. They have provided updates on a quarterly basis.