

From: [MacNeil, Larry](#)
To: [Christine Jung](#); [Compliance Manager](#)
Cc: [Deanna Santana](#); [Brian Doyle](#); [Kenn Lee](#); [Ruth Shikada](#)
Subject: RE: LCP Tracker Agmt
Date: Wednesday, October 7, 2020 4:22:44 PM
Attachments: [image002.png](#)
[image005.png](#)
[image001.png](#)
[image003.png](#)

Hi Christine.

Your email is yet another display of non-cooperation and politically motivated rhetoric.

Our request is rather simple. We seek the approval of the LCP Tracker software for \$13K with an additional \$12K of contingency for the potential software integration of your proposed new SCSA accounting system (see Schedule 1 Item V of the LCP Contract – Software customization at \$275/hour). This option is outlined in the contract provided.

However, due to the fact that the City has made zero progress on actually implementing the new SCSA accounting system for the past year and a half, the contingency can be removed from consideration at this time.

It would be more efficient to include the potential software integration now, but we all know that the SCSA's preferred bureaucratic process is anything but efficient. If you ever get that project on track, and you want to integrate LCP into the new system, then you can use additional public resources to go back to your Board for further expense authorization.

With respect to your assertion that Stadium Manager has a "contractual duty" to prepare your staff reports to your Board, you are incorrect. You are reminded that Stadium Manager's contractual duties are set forth in the Management Agreement, and preparing your Board reports is not within the scope of that agreement. The Stadium Manager offered to perform this additional work two months ago, but your political constraints seemingly prevent you from exercising that option. Please refer to section 2.6.21: "...the Stadium Manager shall not be obligated to perform any such additional services or functions without adequate reimbursement for additional expenses incurred by it thereby and an appropriate adjustment of Management Fees in connection therewith..."

Please advise what direction the staff will recommend to the Board with respect to this LCP Tracker contract.

We look forward to your response.

Larry MacNeil
San Francisco 49ers
408.416.1639

From: Christine Jung <CJung@SantaClaraCA.gov>
Sent: Thursday, October 1, 2020 5:16 PM
To: MacNeil, Larry <larry.macneil@49ers.com>; Compliance Manager <compliancemanager@49ers-smc.com>
Cc: Deanna Santana <DSantana@SantaClaraCA.gov>; Brian Doyle <BDoyle@SantaClaraCA.gov>; Kenn Lee <KLee@SantaClaraCA.gov>; Ruth Shikada <RShikada@SantaClaraCA.gov>
Subject: RE: LCP Tracker Agmt

Hi Larry,

Your response below, as well as the unexplained near 100% contingency amount requested in the agenda report, confirms Stadium Manager's profound misrepresentation that it had the professional experience to manage public facilities such as Levi's Stadium on behalf of the public. Anyone familiar with procuring goods and services for a public facility knows that you can't ask for an expenditure of public funds from the governing agency without a complete explanation of your requested authorization. In this case, your request proposes an authorization of \$25,000 of public funds for a \$13,180 contract, with no public disclosure of what the remainder of the public funds would be used for and no supporting documentation for your recent claim. As a rule of thumb, contingencies are normally in the 5 to 10% range. If you had an explanation for an extraordinary request for an almost 100% contingency you should have included this in the original email. Indeed, the Stadium Manager should recognize its duty to work collaboratively with the Stadium Authority Board and staff to obtain the approvals that it requires to fulfill its contractual duties (including drafting your requests to the Board).

As you already know, due to the Stadium Authority Board's revocation of the Executive Director's authority to procure good and services on behalf of the Stadium Authority as of November 8, 2019, the Stadium Manager is required to seek approval from the Board and to demonstrate that it has properly and legally procured the services before Stadium Authority contracts may be executed. As such, we will transmit the incomplete agenda report that the Stadium Manager submitted, along with the LCPTracker Agreement, to the Board for its consideration at the October 13 Special Board Meeting. Stadium Authority staff will also prepare a separate report to address any misrepresentations and incorrect/inadequate information included in the report, including a copy of this email.

We recommend that the Stadium Manager be present either in person or virtually for the October 13 meeting to respond to any questions that the Board might have about the contract. The agenda packet with the Zoom participation information will be posted on the [City's website](#) no later than 72 hours prior to the meeting.

Sincerely,
Christine Jung | Assistant to the Executive Director
1500 Warburton Avenue | Santa Clara, CA 95050
D: 408.615.2218 | www.santaclaraca.gov/scsa

From: MacNeil, Larry <larry.macneil@49ers.com>
Sent: Thursday, September 24, 2020 5:49 PM
To: Christine Jung <CJung@SantaClaraCA.gov>
Cc: Deanna Santana <DSantana@SantaClaraCA.gov>; Brian Doyle <BDoyle@SantaClaraCA.gov>; Kenn Lee <KLee@SantaClaraCA.gov>; Ruth Shikada <RShikada@SantaClaraCA.gov>; Compliance Manager <compliancemanager@49ers-smc.com>
Subject: LCP Tracker Agmt

Hi Christine.

This is in reply to your email dated 9.18.2020 regarding the LCP Tracker Agreement, which was submitted by Stadium Manager to Manager Santana for approval on 5.5.2020.

Your statement that you “asked for more information” with respect to the \$25,000 NTE, as stated in the quarterly meeting last week and again in your email, is false. Further, the suggestion that Stadium Manager is to blame for the SCSA’s repeated moving of the goalposts is absurd.

I sent the LCP Agreement for approval by the SCSA on 5.5.2020. Manager Santana sent back a letter dated 5.12.2020 requesting that I prepare a Staff Report for the SCSA Board (attached). As I have previously indicated, the preparation of Board Reports is not within the scope of Stadium Manager’s contract. That is the responsibility of City Staff. As indicated in Mr. Mercurio’s email to you dated 7.31.2020:

“Your letter requested a “corresponding agenda report” that you can submit to your Board. Please note that the preparation of written reports to your Board is outside the scope of the Management Agreement. That work should be handled by City Staff, as it has been for the past decade. If you would like Stadium Manager to consider handling this work for you in the future, we would be happy to put together an “additional services” budget pursuant to Section 2.6.21 of the Management Agreement for that scope of work. This would include additional staffing and an increase to the Management Fee, all of which would be charged to the SCSA.”

In other words, we are not doing your job for you.

You will note that Manager Santana’s 5.12.2020 letter regarding this specific contract makes no mention of your newly found concern over the difference between the \$25,000 versus the \$13,180. That’s because you never raised this issue until now.

While the contingency amount would allow for the costs associated with the potential integration of the software with the accounting system eventually selected by the SCSA, we have no interest in wasting our time jumping through your bureaucratic hoops. If you want to get approval from your Board for a \$13,180 contract, go right ahead. In either case, please take the steps necessary to approve the contract so we can execute it. These bureaucratic tactics only waste our time and yours.

I have attached a copy of the LCP Tracker contract. Please let us know when it is approved.

Thx

Larry MacNeil
San Francisco 49ers
408.416.1639

From: Christine Jung <CJung@SantaClaraCA.gov>
Date: Friday, September 18, 2020 at 2:31 PM
To: "Mercurio, Jim" <jim.mercurio@49ers.com>, "Beauchman, Jihad" <Jihad.Beauchman@49ers.com>
Cc: Deanna Santana <DSantana@SantaClaraCA.gov>, Brian Doyle <BDoyle@SantaClaraCA.gov>, Kenn Lee <KLee@SantaClaraCA.gov>, Ruth Shikada <RShikada@SantaClaraCA.gov>
Subject: LCP Tracker Agreement Follow Up

Hi Jim and Jihad,

As a follow up to yesterday's discussion about the LCP Tracker Agreement, we would like to better understand the difference between the cost structure of the services (\$13,180) and the proposed not-to-exceed amount of the agreement (\$25,000) referenced on pages 3-4 of the attached draft agenda report that was included with your May 5 letter. Normally an agreement's not-to-exceed amount may include a small contingency amount above the cost of service but in this case the contingency costs are almost equal to the cost of the entire cost structure. Please update the agenda report to include an explanation for the contingency.

The next Stadium Authority Board Special Meeting is scheduled for October 13, 2020. Please submit the revised report no later than next Thursday, September 24 so that it can be reviewed and routed in time for that meeting. In the future, you are reminded not to let four months pass without inquiring about items important to the Stadium Manager's business.

As we discussed yesterday, our notes clearly showed that we asked for more information and Jihad stated that he would get back to us. There was no need for a delayed inquiry of four months. Thank you.

Sincerely,
Christine Jung | Assistant to the Executive Director
1500 Warburton Avenue | Santa Clara, CA 95050
D: 408.615.2218 | www.santaclaraca.gov/scsa

Larry MacNeil
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