



Agenda Report

22-1398

Agenda Date: 12/6/2022

REPORT TO STADIUM AUTHORITY BOARD

SUBJECT

Report from Stadium Authority Regarding Stadium Manager's Request to Execute Agreement with LCPtracker, Inc. for Labor Compliance Software Subscription Service

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approved Ordinance No. 2005 amending Chapter 17.30 of the City Code (Stadium Authority Procurement Policy), which rescinded the delegation to the Executive Director to enter into agreements without prior Board approval.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 to execute an agreement with LCPtracker, Inc. (LCPtracker) for a cloud-based labor compliance software subscription, for a one-year period beginning December 15, 2022 through December 14, 2023, in the amount of \$13,090 and delegated authority to annually renew subscription services for an additional two years from December 15, 2023 through December 14, 2025. Since the renewal term extends beyond a single fiscal year, the term for subsequent fiscal years shall be conditioned upon approval of the Stadium Authority budget for the applicable fiscal year that includes the amounts due under the agreement as required under Chapter 17.30.100.

LCPtracker is software for certified payroll reporting, construction site compliance management, and workforce reporting, which are key elements of reporting to the Department of Industrial Relations for compliance with state worker wage laws (e.g., prevailing wage). The City has a current agreement with LCPtracker and these services have helped with management of prevailing wage agreements and tracking of contractors' certified payroll. Due to the significant number of projects and services that require prevailing wage at Levi's Stadium, the Stadium Authority supports the Stadium Manager's entering into an agreement with LCPtracker for such services.

DISCUSSION

Stadium Authority staff reviewed the Stadium Manager's Recommendation for Award memo (attached to corresponding report #22-1397) for consistency against the Stadium Authority Procurement Policy and Santa Clara City Code Chapter 2.105.140(a) (Competitive Requirements for Purchases - Agreements Under \$15,000). Staff also reviewed this request against the Stadium Manager's previous request to execute a LCPtracker agreement. The main issues that were identified in the prior request/agreement, such as a contingency amount that was in excess of the normal 10-15%, mathematical/typographical errors between the agreement/report, and an undefined term for the agreement, are not in this new submittal (e.g., no contingency requested, service costs are clear in the report and match the agreement, and the term is defined as one year in the agreement).

As such, staff recommends approval of the Stadium Manager's request to execute an agreement with LCPtracker for a cloud-based labor compliance software subscription, for a one-year period beginning December 15, 2022 through December 14, 2023, in the amount of \$13,090. In regard to the Stadium Manager's request for delegated authority to annually renew subscription services for an additional two years, staff recommends that the authority be delegated to the Executive Director instead, subject to budget appropriations. Currently, the Executive Director has no delegated signature authority for agreements under the Stadium Authority Procurement Policy. Approving staff's recommendation to provide the Executive Director with such authority 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 differences in the language for major provisions, 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 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 Fiscal Year (FY) 2022/23 Budget 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 (StadCo) per the Management Agreement.

There are sufficient funds in the FY 2022/23 Stadium Operations line item to cover the agreement cost for this year (\$13,090, of which the Stadium Authority is responsible for \$6,545).

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

RECOMMENDATION

1. Approve the Stadium Manager's request to execute an agreement with LCPtracker for a cloud-based labor compliance software subscription in the amount of \$13,090 for a one-year period, from December 14, 2022 to December 15, 2023; and,
2. Authorize the Executive Director to approve the Stadium Manager's execution of annual renewal for subscription services for an additional two years from December 15, 2023 through December 14, 2025 for the agreement with LCPtracker, subject to budget appropriations.

Prepared by: Christine Jung, Assistant to the Executive Director

Approved by: Rajeev Batra, Executive Director