

Attachment 3

Stadium Manager's Email on
2022/05/19

Larry Lo

From: Brent Ghan <Brent.Ghan@49ers.com>
Sent: Thursday, May 19, 2022 4:48 PM
To: Larry Lo; Linh Lam
Cc: Darren Wong
Subject: RE: CapEx Payment Request

Hi Larry,

Thank you for the status update on payment of the invoice from R. Brother's Painting, Inc. for work performed on the Rust Protection Mitigation Project Bent Steel at Stadium Perimeter – Level 300

I spoke with our team and there are some other projects in similar situations as this one, which were budgeted and approved by the board, but in progress as of 3/31/22 and not carried over into the FY22/23 CapEx budget. If you would like to include these projects in the budget amendment, it may be more efficient as these projects completed and invoices are billed.

Here are those projects:

Supplier/Contractor	Commodity/Services	SCSA Board Meeting Date
MGS DBA Mission Glass Supply	Window Tinting C Post	10/19/2021
R.E. Cuddie Co.	Resilient Flooring	10/19/2021
Bartley Pump PM, LLC	Lift Station	1/11/2022
Ample Electrical Inc.	Electric Rooms Light Fixtures	1/11/2022
Bear Electrical Solutions, Inc	Luminaire Project Gold 4/5	1/11/2022
R. Brothers Painting Inc.	Rust Prevention Mitigation	1/11/2022

On a related note, because of delays in payment on previous CapEx projects that underwent prevailing wage review by the Authority's labor compliance consultant – CCMI, we wish to ensure you are aware of California prompt payment requirements under Public Contract Code sections 7107 and 20104.50, which require payment on progress payment requests and final payment requests within 30 days and 60 days from receipt of an invoice, respectively. If there is a reasonable justification for withholding amounts invoiced, only the disputed amounts may be withheld from the contractor, and any undisputed amounts must be paid within the above timelines to avoid statutory interest penalties at the interest rates established under Public Contract Code 7107 (for late final payment – presently 2% per month) and Code of Civil Procedure section 685.010 (for late progress payments – presently 10% per annum).

Our prior experience associated with the Authority's prevailing wage review has been the Authority withholding the entire payment (final or progress) until the review is concluded. This has at times meant contractors on SCSA CapEx projects are not paid anything for completed projects for several months notwithstanding their successful performance of all work on the project. We do not believe this practice is consistent with state prevailing wage law or California prompt payment requirements. We note state prevailing wage law carries specific statutory penalties for non-compliance and would urge the Stadium Authority to only withhold payment in amounts authorized by statute and to

otherwise make payment of undisputed amounts within the prompt payment timelines established in the statutes noted above.

Please let me know if you have any questions.

Thank you,

BRENT GHAN

Manager, Accounting

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#FTTB

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