



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

GRANTED IN PART: July 17, 2009

CBCA 717

CADDELL CONSTRUCTION COMPANY, INC.,

Appellant,

v.

GENERAL SERVICES ADMINISTRATION,

Respondent.

Arlan D. Lewis of Bradley Arant Rose & White LLP, Birmingham, AL, counsel for Appellant.

Catherine Crow, Office of General Counsel, General Services Administration, Washington, DC, counsel for Respondent.

Before Board Judges **DANIELS** (Chairman), **BORWICK**, and **WALTERS**.

WALTERS, Board Judge.

The instant appeal was from a contracting officer's decision regarding a claim submitted by the appellant, Caddell Construction Company, Inc. (Caddell), on behalf of itself and its various subcontractors, to respondent, the General Services Administration (GSA), for \$15,009,889. The claim relates to a contract between the parties under contract no. GS06P02GZC0546 for the renovation of the Edward Zorinsky Federal Building in Omaha, Nebraska (the contract). Subsequent to the Board docketing the appeal, Caddell revised its total overall claim amount downward to \$12,048,984. By decision of January 21, 2009, the Board had made a partial award of \$1,241,617.99 in Caddell's favor with respect

to a portion of the overall claim, for one of the component claim items submitted on behalf of one of Caddell's subcontractors, Faith Technologies, Inc., d/b/a SKC Electric (SKCE). That partial award, pursuant to the parties' settlement agreement and joint stipulation, was paid, pursuant to the Board's decision, from the permanent indefinite judgment fund, 31 U.S.C. § 1304 (2006).

On January 9, 2009, GSA demanded payment from Caddell of \$2,949,500 for liquidated damages in connection with its performance under the contract. Caddell disputed this demand. Subsequently, through alternative dispute resolution (ADR), the parties resolved this liquidated damages claim as well as all remaining Caddell claim items under the appeal.

Pursuant to a settlement agreement, executed and effective on July 8, 2009, the parties agreed that Caddell would accept the total sum of \$3,652,145.46 (the "settlement amount") in full and final settlement of all matters relating to the contract, including without limitation the claim and appeal. To effect payment of the settlement amount, the parties agreed to: (1) execute a bilateral modification to the contract that provides for an increase in the contract price by \$1,000,000; and (2) enter into a joint stipulation seeking a final judgment from the Board in the total sum of \$2,652,145.46. The parties accordingly have submitted a joint motion for stipulated award, under which they seek an award in Caddell's favor in the total amount of \$2,652,145.46, inclusive of costs, attorney fees, and interest, to be paid from the permanent indefinite judgment fund, 31 U.S.C. § 1304 (2006). The settlement agreement and joint stipulation provide that, should payment of the settlement amount not be made to Caddell within seventy-five days of the effective date of the settlement agreement, i.e., by Monday, September 21, 2009, interest under the Contract Disputes Act of 1978, 41 U.S.C. § 611, shall begin to accrue on any unpaid part of the settlement amount, starting on the seventy-sixth day after the effective date of the settlement agreement (that is, starting on September 22, 2009). Finally, the joint stipulation, pursuant to Board Rule 25(b) (48 CFR 6101.25(b) (2008)), provides that neither party will seek reconsideration of or relief from the Board's decision or appeal the Board's decision related to the motion.

Decision

Accordingly, the appeal is **GRANTED IN PART**. In accordance with the parties' joint motion, the Board awards Caddell the sum of \$2,652,145.46, inclusive of costs, attorney fees, and interest, said award to be paid from the permanent indefinite judgment fund, 31 U.S.C. § 1304. Also, in accordance with the parties' settlement agreement and joint motion, should payment of the settlement amount not be made to Caddell by September 21, 2009, interest under the Contract Disputes Act of 1978, 41 U.S.C. § 611, shall begin to accrue on any unpaid part of the settlement amount, starting on September 22, 2009.

RICHARD C. WALTERS
Board Judge

We concur:

STEPHEN M. DANIELS
Board Judge

ANTHONY S. BORWICK
Board Judge