



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

GRANTED IN PART: July 16, 2015

CBCA 2951, 3445, 3539, 3558, 3884

KEPA SERVICES, INC.,

Appellant,

v.

DEPARTMENT OF VETERANS AFFAIRS,

Respondent.

William L. Bruckner and Nicholas A. Arcamone of Bruckner Law Firm, APC, San Diego, CA; and Timothy F. Noelker and Scott F. Lane of Thompson Coburn LLP, St. Louis, MO, counsel for Appellant.

Cecily Chambliss, Office of General Counsel, Department of Veterans Affairs, Washington, DC; and Helen S. Henningsen, Office of General Counsel, Department of Veterans Affairs, Milwaukee, WI, counsel for Respondent.

Before Board Judges **VERGILIO, POLLACK**, and **LESTER**.

LESTER, Board Judge.

On or about August 4, 2010, the Department of Veterans Affairs (VA) awarded contract no. VA101CFM-C-0093 to appellant, Kepa Services, Inc. (Kepa), to improve and expand the Abraham Lincoln National Cemetery in Elwood, Illinois. The cemetery expansion involved the development of twenty acres, including but not limited to the

provision of 12,122 pre-placed crypts, 325 conventional grave sites, 2677 cremains burial sites, and 6584 columbarium niches for cremains. Cemetery improvements included walkways, site furnishings, grading, drainage, fencing, landscaping, a utility distribution system, and the removal and replacement of roadways and a main entrance gate.

During and following performance of the contract, Kepa submitted several claims to the contracting officer seeking monetary compensation from the VA, and Kepa subsequently appealed the contracting officer's decisions denying those claims to the Board. Those appeals include those docketed at the Board as CBCA 2951, 3445, 3539, 3558, and 3884.

The parties subsequently engaged in mediation, through which they successfully resolved, in their entirety, all of the claims at issue in CBCA 2951, 3445, 3558, and 3884 and three specific claims – the Blodgett Road claim, the Shelter D Battery Ventilation claim, and the Irrigation at Columbaria claim – at issue in CBCA 3539 (collectively, the “Resolved Claims”). In the settlement agreement dated July 8, 2015, a copy of which has been filed with the Board, the parties ask the Board to issue a decision making a stipulated award on the Resolved Claims in Kepa's favor in the amount of \$375,000, with interest to run at rates prescribed by the Contract Disputes Act (CDA), 41 U.S.C. § 7109 (2012), beginning September 1, 2015, if the Judgment Fund has not paid the stipulated amount by that date. The parties further stipulate that they will not seek reconsideration of or relief from, and will not appeal, the Board's decision awarding the stipulated amount.

By motion dated July 9, 2015, the parties jointly requested that the Board issue a decision awarding the stipulated amount of \$375,000 covering the Resolved Claims.

Decision

The appeals in CBCA 2951, 3445, 3539, 3558, and 3884 are **GRANTED IN PART**. The Department of Veterans Affairs shall pay \$375,000, inclusive of interest, to Kepa in full settlement of the Resolved Claims, with each party to bear its own attorney fees and expenses. This payment may be made from the permanent indefinite judgment fund, 31 U.S.C. § 1304. If this amount is not paid by September 1, 2015, there shall be added to it interest, at rates prescribed by the CDA, beginning on September 1, 2015, and ending on the date of payment.

This decision resolves CBCA 2951, 3445, 3558, and 3884 in their entirety. This decision also resolves the three previously referenced claims in CBCA 3539 in their entirety, but Kepa's additional claims in CBCA 3539 – the New Gas Line claim, the Washington-Madison claim, the Hoff Road claim, and the Extended Generator claim – remain pending before the Board for further adjudication.

HAROLD D. LESTER, JR.
Board Judge

We concur:

JOSEPH A. VERGILIO
Board Judge

HOWARD A. POLLACK
Board Judge