

WILLIAM E. FITZPATRICK
Acting United States Attorney
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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA,
Plaintiff,

vs.

EDA CONTRACTORS, INC., JOHN
DOES 1-10, and ABC CORPS. 1-10,

Defendant(s).

EDA CONTRACTORS, INC., JOHN
DOES 1-10, and ABC CORPS. 1-10,

Third –Party Plaintiff,

vs.

ARMM ARCHITECTURE
ASSOCIATES, INC.,

Third-Party Defendants.

CIVIL ACTION NO.
1:15-cv-03745-RBK-JS

CONSENT JUDGMENT

Plaintiff, United States of America (the “United States”), by its undersigned attorney (William E. Fitzpatrick, Acting United States Attorney, Mark C. Orlowski, appearing), having filed a Complaint against Defendant, EDA Contractors, Inc. (“EDA”), and EDA having appeared by his undersigned attorney, Floyd G. Cottrell, Esq., and the United States and EDA having consented to entry of this Consent Judgment;

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

1. This Court has jurisdiction over the subject matter and the parties executing this Consent Judgment.

2. In the Complaint, the United States contends that it has civil causes of action against EDA in negligence relating to a fire that occurred at the Federal Aviation Administration (“FAA”) Technical Center (“FAA Tech Center”), located in Atlantic City, New Jersey. Specifically, the United States alleges that the negligence of EDA’s employees was the proximate cause of a fire that occurred at Building 300 of the FAA Tech Center on June 22, 2012. The allegations contained in this Paragraph are hereinafter referred to as the “Covered Conduct.”

3. EDA has denied that it is liable for any of the claims of Covered Conduct in the Complaint.

4. This Consent Judgment is not an express or implied waiver by EDA of any rights that EDA has against Third-Party Defendant ARMM Architecture Associates, Inc., to seek contribution for the payment by EDA pursuant to this Consent Judgment.

5. In satisfaction of the claims raised in the Complaint against EDA, judgment is hereby entered against EDA in the amount of three million, five hundred thousand dollars (\$3,500,000.00), payable to the United States (the “Judgment”).

6. EDA and the United States have agreed that in order to satisfy this Judgment, EDA will pay the Judgment within 30 days from the date the Court orders this Consent Judgment. The payment of the Settlement Amount in full to the United States shall be made by electronic funds transfer pursuant to written instructions to be provided by the undersigned attorneys for the United States.

7. The United States agrees that it shall hold this Consent Judgment in abeyance and shall not seek to enforce this Consent Judgment by levying on EDA’s property, provided that EDA makes timely payment as set forth in Paragraph 5 herein. In the event that EDA fails to

make timely payment under Paragraph 4 herein, EDA shall be in default of its obligations under this Consent Judgment, the full amount of the Judgment shall become immediately due and owing, and the United States may enforce this Consent Judgment.

8. Notwithstanding any term of this Consent Judgment, specifically reserved and excluded from the scope and terms of this Consent Judgment, as to any entity or person, are the following:

- a. Any civil, criminal or administrative liability arising under Title 26, U.S. Code (Internal Revenue Code);
- b. Any criminal liability;
- c. Any administrative action or liability, including any debarment action;
- d. Any liability to the United States for any conduct other than the Covered Conduct;
- e. Any liability based upon such obligations as are created by the execution of this Agreement; and
- f. Except as explicitly stated in this Agreement, any liability of any other individuals or entities.

9. The United States and EDA shall each bear their own legal and other costs incurred in connection with this matter. In the event, however, that the United States is required to take legal action to levy on property to collect the Judgment under this Consent Judgment, EDA shall pay to the United States all reasonable costs and fees.

10. All costs incurred by or on behalf of EDA in connection with a) the matters covered by this Consent Judgment, b) the United States' investigation of the matters covered by this Consent Judgment, c) EDA's investigation, defense, and corrective actions undertaken in response to the United States' investigation in connection with the matters covered by this

Consent Judgment (including attorney's fees), (d) the negotiation and performance of this Consent Judgment, and (e) the payment(s) made to the United States pursuant to this Consent Judgment shall be "unallowable costs" for government contract accounting purposes. These unallowable costs shall be separately determined and accounted for by EDA, and EDA will not charge such unallowable costs directly or indirectly to any contracts with the United States or seek payment for such unallowable costs through any cost report, cost statement, information statement, or payment request submitted by EDA or any of its subsidiaries to the United States. EDA further agrees that within 90 days of the effective date of this Consent Judgment, it will identify to the United States any unallowable costs (as defined in this Paragraph) included in payments previously sought from the United States, including, but not limited to, payments sought in any cost reports, cost statements, information reports, or payment requests, already submitted by EDA, or any of its subsidiaries or affiliates, and will request, and agree, that such costs reports, cost statements, information reports, or payment requests, even if already settled, be adjusted to account for the effect of the inclusion of unallowable costs. EDA agrees that the United States, at a minimum, will be entitled to recoup from EDA any overpayment plus applicable interest and penalties as a result of the inclusion of such unallowable costs on previously submitted cost reports, information reports, cost statements, or requests for payment.

Any payments due after the adjustments have been made shall be paid to the United States pursuant to the direction of the Department of Justice, Office of the United States Attorney for the District of New Jersey. The United States reserves its rights to disagree with any calculations submitted by EDA or any of its subsidiaries on the effect of inclusion of unallowable costs (as defined in this Paragraph) on EDA's or any of its subsidiaries' cost reports, cost statements, or information reports. Nothing in this Consent Judgment shall constitute a

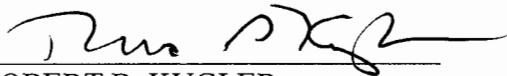
waiver of the rights of the United States to examine or reexamine the unallowable costs in this Paragraph.

11. The United States and EDA consent to the United States' disclosure of this Consent Judgment, and information about this Consent Judgment, to the public.

12. The undersigned counsel each represent that they have been duly authorized by their respective clients to execute this Consent Judgment.

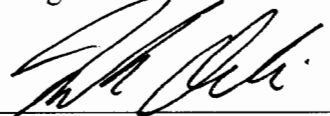
13. The Complaint filed in this action is hereby dismissed, however, the Court retains jurisdiction of this matter to the extent necessary to enforce the terms and conditions of this Consent Judgment.


SO ORDERED this 18th day of September, 2017.


ROBERT B. KUGLER
UNITED STATES DISTRICT JUDGE

We hereby consent to the terms and entry of the above Consent Judgment:

On behalf of the United States of America:
WILLIAM E. FITZPATRICK
Acting United States Attorney


MARK C. ORLOWSKI
Assistant United States Attorney
Attorney for Plaintiff, United States of America
On behalf of EDA Contractors, Inc.


FLOYD G. COTTRELL
COTTRELL SOLENSKY, P.A.,
Attorneys for Defendant, Third-Party Plaintiff
EDA Contractors, Inc.