

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
CONTRACT APPEALS BOARD

APPEAL OF:

FORT MYER CONSTRUCTION CORPORATION )

Under Contract No. 1A600934 )

) CAB No. D-1021

For the Appellant, Fort Myer Construction Corporation: Christopher M. Kerns, Esq. For the Government: Robert C. Utiger, Esq., Assistant Corporation Counsel.

Opinion by Administrative Judge Jonathan D. Zischkau, with Chief Administrative Judge Lorilyn E. Simkins and Administrative Judge Phyllis W. Jackson, concurring.

**OPINION**

Appellant Fort Myer Construction Corporation performed certain services for the District's Department of Public Works pursuant to a purchase order. In a motion for summary judgment, Fort Myer states that it fully performed its services, properly invoiced the District, but has never been paid for the services. The District has elected not to respond. Because there is no contention that the District received the services and has never paid for them, we grant summary judgment.

**BACKGROUND**

On or about April 2, 1996 the District's Department of Public Works, Water & Sewer Utility Administration requisitioned from Fort Myer certain quantities of asphalt under Purchase Order No. LA600934. (Fort Myer's Motion for Summary Judgment ("SJ") Ex. 1).

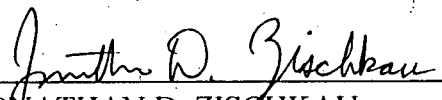
Pursuant to the purchase order, DPW picked up the requested asphalt on August 20, 1996, and on September 12, 1996, from the Fort Myer batching plant. Trucking tickets verify the quantities of asphalt received by DPW. (SJ Ex. 2). In September 1996, Fort Myer sent DPW invoices that reflected the quantities of asphalt obtained. (SJ Ex. 3, September 5, 1996 Invoice No. F11549, and September 18, 1996 Invoice No. F11632). These two invoices totaled \$2,331.90. DPW accepted the asphalt deliveries and never objected to the invoices as being improper. Nevertheless, the District has failed to pay Fort Myer for the asphalt.

On or about December 2, 1996, Fort Myer sent DPW a demand letter requesting immediate payment on the outstanding invoices. (SJ Ex. 4). DPW did not respond. On September 10, 1997, Fort Myer filed a notice of appeal and complaint. The District has failed to file any answer or the appeal file.

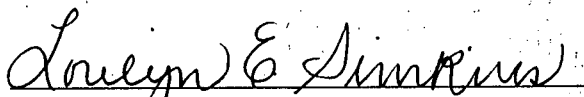
Because there is no dispute that payment by the District of the two invoices was due in October 1996, the statutory interest penalties under the District of Columbia Quick Payment Act apply to the amounts due for a one-year period from September 1996 through September 1997. D.C. Code §, 1-1174(a). The principal amount, compounded monthly at one percent per month yields a total of \$2,627.64 as of September 1997. (SJ Appendix I). Fort Myer is also entitled to interest at four percent per annum on that total from September 1997. Accordingly, Fort Myer is entitled to \$2,794, which shall be paid by the District within 45 days of the issuance of this decision.

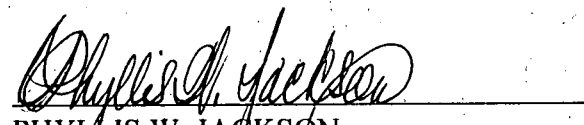
**SO ORDERED.**

DATED: March 2, 1999

  
JONATHAN D. ZISCHKAU  
Administrative Judge

CONCURRING:

  
LORILYN E. SIMKINS  
Chief Administrative Judge

  
PHYLLIS W. JACKSON  
Administrative Judge  
Copies to:

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
CONTRACT APPEALS BOARD**

**717 14<sup>TH</sup> STREET, N.W., SUITE 430**

**WASHINGTON, D.C. 20005**

**(202) 727-6597 (Ofc #)**

**(202) 727-3993 (Fax #)**

**★★★**



March 3, 1999

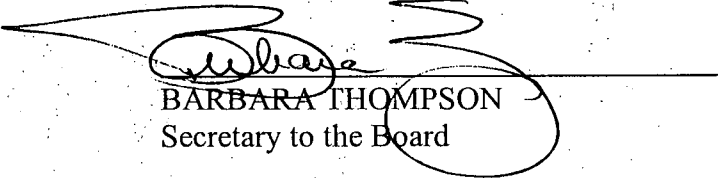
***This is to Correct the CAB No. in this Appeal, Correct  
CAB No. is D-1021, instead of D-1020***

TO: Robert Utiger, Esquire  
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Fort Myer Construction Corporation  
2237 33<sup>rd</sup> Street, N.E.  
Washington, DC 2018-1594

SUBJECT: CAB No. **D-1021**, (Appeal Of: **Fort Myer Construction Corporation**)

Attached is a copy of the Board's Opinion.

  
BARBARA THOMPSON  
Secretary to the Board

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
CONTRACT APPEALS BOARD**

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March 3, 1999

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Washington, DC 20018-1594

SUBJECT: CAB No. **D-1020** (Appeal Of: **Fort Myer Construction Corporation**)

Attached is a copy of the Board's Opinion.



**BARBARA THOMPSON**  
Secretary to the Board