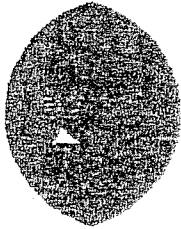


## STATEMENT

1. I, Roque A. Alcantara, was formerly the "Administrator, Supply Management" officer for the Guam Department of Education ("GDOE"). As the Administrator, Supply Management officer I was responsible for reviewing and evaluating bid packages received from bidders in response to solicitations on behalf of the GDOE.
2. During the course of my employment, I reviewed the bids GDOE received in response to Invitation for Bid No. GPSS IFB-008-2009 (Re-Bid) (the "IFB"), including the bid submitted by Eons Enterprises Corporation ("Eons") on June 24, 2009.
3. During the initial review of Eons bid, I discovered that Eons submitted a "Basic" bid and an "Alternate" bid; however, Eons did not submit an "Explanation" for the Alternate bid. Accordingly, I rejected the bid of Eons due to this failure, as it was expressly required by the IFB.
4. As per the request for re-consideration submitted by Eons, I again reviewed the bid submitted by Eons. During this second review of Eons bid, I again could not locate the Explanation for the Alternate bid, as stated my August 14, 2009 letter, which is attached as Exhibit 1.
5. I have reviewed the Explanation Eons claims to have submitted with its bid, which is attached as Exhibit 2; and, this document was not submitted as a part of its bid submitted to the GDOE on June 24, 2009.

Dated: 10-29-2009

  
\_\_\_\_\_  
Roque A. Alcantara



# OFFICE OF SUPPLY MANAGEMENT GUAM DEPARTMENT OF EDUCATION

*Manuel F.L. Guerrero / Administration Building  
2nd. Floor, Suite B-202  
Hagåtña, Guam 96932  
Telephone: (671)300-1581  
Fax: (671) 472-5001*



*Nerissa Bretanio-Shafer, Ph.D.  
Superintendent of Education*

*Roque A. Alcantara  
Administrator, Supply Management*

August 14, 2009

Eon's Enterprises Corporation  
118 E. Marine Drive, Suite B2 Eons Comm Building  
Dededo, Guam 96929  
Tel: (671) 637-6869  
Fax: (671) 637-6871

Attn: Frank F.C. Wu

Reference: Oceanview Middle School Gymnasium Repair  
Form Bid: GPSS IFB 008-2009 (Re-Bid)


**Buenas yan Saludas,** This letter is in response to your letter dated August 06, 2009 and received on the same.

In your letter, you indicate that *"The submission for Basic and Alternate bid is applicable as checked in the box no. 9 (BIDDER'S PRICES) of the invitation to bid and must be considered with most favorable to the government."*

Please be advised that it also states, *"Failure to explain this requirement will result in rejection of the bid."*(See Section 23)

Pursuant to Section number 9 of the **General Terms and Conditions Sealed Bid Solicitation and Award**, submission of a Basic and Alternate bid is acceptable, however, you failed to explain the reasoning behind the offering of the Alternate Bid, therefore, your bid is hereby rejected in its entirety.

Should you have further concerns regarding this matter, please call me at 300-1581.

  
ROQUE A. ALCANTARA  
Administrator, Supply Management

Acknowledge Receipt:

MAX MANABAT  
(Print and Sign)

8-19-08  
(Date)

8:00 AM/PM  
(Time)

EONS ENTERPRISES CORPORATION TABLE AND SPREADSHEET

5

Materials Offered for the Basic and Alternate bids:		Oceanview Gymnasium Repairs IFB 008-2009 (Re Bid)		Remarks		Difference in price basic bid/alternate	
Item	Major Item/Materials	Basic Bid Materials	Alternate Bid Materials				
1	Attached Resilient flooring	1) MRT Polytex Gym, 7mm PU \$ 187,760.00	Lesutan Bp2, 7mm PU \$ 58,716.00	Made in London, good quality. Too Expensive Floor system is available of range of specs High Shipment/Freight Expenses! Longer time in shipping and handling 60days		\$ 109,044.00	
2	Bleachers	Iron Telescopic Seating Co Iron Model 4500 \$ 64,000.00	Synergy Telescopic Bleachers \$ 40,000.00	Made in China, good quality. Inexpensive Monolithic in application for all weather Lower shipment cost, accepted by IAAF 45 days shipment schedule		\$ 24,000.00	
3	Metal Doors/frames Roof up doors and	Doornat USA \$ 90,150.00	Mexin \$ 61,520.00	Made in USA, in compliance with the specs High price, good quality		\$ 28,630.00	
4	Panic devices/closers	Stanley e.g. door closer, panic device	Power Note: This is included at the doors accessories e.g. door closer, panic device	Made in Taiwan Meets the specs and inexpensive! Inexpensive shipment and delivery Simple mechanism and maintenance friendly UL approved		\$ 2,103.00	
5	Resilient Flooring vinyl tiles	Armstrong, 12"x12"x1/8" 12X12X1/8 \$ 11,917.00	Regent 12x12x4mm \$ 9,814.00	Standard quality and materials Special order		\$ 2,103.00	
6	Locker	Hallowell Brand	Hallowell Brand	Made in USA Meets the specs		\$ -	
7	Scoreboard	Scoreboard 2655	Hallowell Brand	Made in USA Meets the specs		\$ -	
8	Drinking Fountain	Haws	Haws	Made in USA Meets the specs		\$ -	
9	Waterproofing	Gaco roof	Gaco roof	Made in USA Meets the specs		\$ -	
10	Paints	Gypsin boards and metal studs other materials necessary to complete the project	Gaco roof	same basic and alternate materials same basic and alternate materials same basic and alternate materials same basic and alternate materials		\$ -	
11				major items difference basic vs alternate (basic is higher)		\$ 163,777.00	

GOVERNMENT OF GUAM  
GUAM PUBLIC SCHOOL SYSTEM

GENERAL TERMS AND CONDITIONS  
SEALED BID SOLICITATION AND AWARD

GPSS IFB NO: 008-2009 (RE-BID)

Only those Boxes checked below are applicable to this bid.

1. **AUTHORITY:** This solicitation is issued subject to all the provisions of 5GCA, Chapter 5 titled the Guam Procurement Act and the Guam Public School System Procurement Regulations (copies of both are available for inspection at the Guam Law Library and the Guam Public School System Procurement Office). It requires all parties involved in the preparation, negotiation, performance, or administration of contracts to act in good faith.
2. **GENERAL INTENTION:** Unless otherwise specified, it is the declared and acknowledged intention and meaning of these General Terms and Conditions for the Bidder to provide the Government of Guam, Guam Public School System (GPSS) with specified services or with materials, supplies or equipment completely assembled and ready to use.
3. **TAXES:** Bidders are cautioned that they are subject to Guam Income Taxes as well as all other taxes on Guam Transactions. Specific information on taxes may be obtained from the Guam Department of Revenue and Taxation.
4. **LICENSING:** Bidders are cautioned that the Government will not consider for award any offer submitted by a bidder who has not complied with the Guam Licensing Law. Specific information on licenses maybe obtained from the Guam Department of Revenue and Taxation.
5. **LOCAL PROCUREMENT PREFERENCE:** All procurement of supplies and services where possible, will be made from among businesses licensed to do business on Guam in accordance with 5GCA Chapter 5 Section 5008 and Section 1.7 of the Guam Public School System Procurement Regulations.
6. **COMPLIANCE WITH SPECIFICATIONS AND OTHER SOLICITATION REQUIREMENTS:** Bidders shall comply with all specifications and other requirements of the Solicitation.
7. **"ALL OR NONE" BIDS:** By checking this item, the Government is requesting all of the bid items to be bided or none at all. The Government will not award on an itemized basis Reference: Section 3.15.6 of the Guam Public School System Procurement Regulations. If the Government

**MEMORANDUM**

To Mr. Rod Traya  
Company Guam Public School System  
cc:  
From Mark Ruth  
Date July 16, 2009  
Subject Oceanview Gymnasium Renovation,  
Bid Submittal Evaluation

Dear Rod,

We have reviewed the product submittals provided by the two "low" contractor bidders. The low "basic bid" is Z4 Corporation and the low "alternate bid" is Eons Corporation.

Each bidder submitted catalog data for products they propose use. The attached chart compares the submitted products by the two contractors. Only those products submitted by one or the other of the two contractors are discussed; for products not submitted, it is assumed that the contractor intends to comply with the specification.

The following are general comments:

- a. Most of the substitutions are for products made in China or Taiwan. If there is a buy-American clause in the GPSS front-end documents, they would not qualify.
- b. Several substitutions are proposed by both the Z4/basic bid and Eons/alternate bid.
- c. In many cases, the catalog material provided is incomplete, not translated into English, or otherwise inadequate for the level of review needed for approval. To assist GPSS in their bid evaluation, we have reviewed the information that was provided and indicate in the Comments columns whether we assume the product is acceptable or unacceptable. These are preliminary judgements and we must reserve the right to disapprove a full submittal when it is made.
- d. These submittals are not sufficient for "construction" submittal approval. Because our specification is based for the most part on U.S. products, during construction we will only review information provided in English, using English units of measurement, and meeting the U.S. testing standards specified. As such, the burden is on the contractor to obtain information to prove his product is a valid substitution and make a proper construction submittal.

Returned herewith are the submittal files you provided.

H:\Projects\GPSS A-E\Oceanview MS\BID\productcomparison.09.wpd

**EXHIBIT 14**

OCEANVIEW GYMNASIUM: BID SUBMITTAL REVIEW

(7/16/09)

<u>PRODUCT</u>	<u>Z4 BID</u>	<u>COMMENTS</u>	<u>EONS ALTERNATE</u>	<u>COMMENTS</u>
07120 Elastomer Roof		per spec	Gaco	Made in U.S., silicon coating is a substitution of system, (acrylic specified). Additional information required for review. Assume is unacceptable.
08100 Metal Doors	Mexin	Made in China, substitution acceptable.	Mexin	Made in China, substitution acceptable.
08210 Wood Doors		per spec	Mexin	Substitution, made in China. No information provided, assume is acceptable.
08310 Access Doors		per spec	Mexin	Substitution, made in China, inadequate information, assume is acceptable.
08330 Overhead Coiling Doors		per spec	Mexin	Substitution, inadequate information submitted to determine construction and if will meet windload. Assume is unacceptable.
08710 Hardware	Stanley	per spec	Power	Substitution, made in Taiwan. Inadequate information submitted to review. Assume is unacceptable.
09625 Athletic Flooring	Taraflex	per spec	Lesutan	Substitution, made in China. Catalog data not translated, so cannot compare to spec. Samples appear acceptable.
09650 Resilient Flooring		per spec	Regent	Substitution, made in China, 1/16" thickness vs. 1/8" per spec. Unacceptable product.
09900 Painting	Sherwin Williams	per spec	Sherwin Williams	per spec
10500 Lockers	Lyon	per spec	Hallowell	Substitution, information submitted for incorrect size lockers, no door numbers indicated. Assume is acceptable.

OCEANVIEW GYMNASIUM: BID SUBMITTAL REVIEW

(7/16/09)

<u>PRODUCT</u>	<u>Z4 BID</u>	<u>COMMENTS</u>	<u>EONS ALTERNATE</u>	<u>COMMENTS</u>
11480 Scoreboard	Electro-Mech	same product as Eons, see their comments.	Electro-Mech	Dimensions differ, reversible panels required for volleyball and wrestling, captions not backlighted, no provisions for timing servers (delay of game), no mesh protection. Product not acceptable.
12760 Telescopic Bleachers	Synergy	Made in U.S., substitution acceptable.	Synergy	Made in U.S., substitution acceptable.
15415 Electric Water Cooler		per spec	Haws	Made in U.S., substitution acceptable.

OCEANVIEW MIDDLE SCHOOL GYM RENOVATION

ABSTRACT OF BIDS

BASIC BID

CONTRACTOR	AMOUNT	REMARKS
Z4 CORP.	\$ 810,000.00	For Technical Evaluation
HUB TEC	\$ 868,000.00	
LOYAL PACIFIC CORP.	\$ 899,970.00	Same
EONS CORP.	\$ 998,578.10	Same
		Same

ALTERNATE BID

CONTRACTOR	AMOUNT	REMARKS
Z4 CORP.	NO BID	
HUB TEC	NO BID	
LOYAL PACIFIC CORP.	NO BID	
EONS CORP.	\$ 729,098.50	For Technical Evaluation

Note: Designer's assistance is needed for Technical Evaluation.



Schedule of Values (ALTERNATE BID)  
**Ocean View Middle School Gymnasium Repair**

ITEM	DESCRIPTION	UNIT	QTY	EF	LABOR			BID AMOUNT	BID ALTERNATE
					U/P	AMOUNT			
IFB -008-2009 ( Re-bid)									
<b>ARCHITECTURAL WORKS</b>									
A1	Replace court floor system (7MM)	SF	4194	7	29358	7	29358	58716	
A2	REMOVAL AND DISPOSAL		4194		0	1	4194	4194	
A3	Paint concrete floor at gymnasium	SF	2958	2	5916	2	5916	11832	
A4	Provide new VCT at band room, band storage, classrooms and offices	SF	2804	1.5	4206	2	5608	9814	
A5	Clean and regrout floor tiles	SF	4900	0.1	490	0.5	2450	2940	
B1	Clean floor and repair floor cracks	LF	0	0	0			0	
B2	Remove existing wood partition walls and doors at locker room	LF	52	0	0	9	468	468	
B2	Clean and paint all interior and exterior walls, exposed conduits, concrete gutters and structures								
B3	Clean and regrout wall tiles	SF	33200	0.75	24900	0.75	24900	49800	
B4	Provide rubber wall base	SF	1626	0.01	16.26		0	16.26	
B5	Seal breezeblock	LF	112	0.7	78.4	1	112	190.4	
C1	Replace bleachers	SF	90	4	360	3	270	630	
C2	Provide fire extinguishers at locker rooms and gymnasium office	SET	4	6000	24000	4000	16000	40000	
C2	Provide fire extinguishers at locker rooms and gymnasium office	PC	3	150	450		0	450	
C3	Repair basketball gol winch sytem, clean backboards and repaint rims and structures	SET	6	150	900	500	3000	3900	
C4	Provide wall padding	SF	300	14	4200		0	4200	
C5	Replace scoreboard	SET	1	8000	8000	1200	1200	9200	
C6	Replace casework at band room and concessions room	LS	1	3000	3000	3500	3500	6500	
C7	Provide accoustical wall panels, remove wood wall trim & accoustical wall tiles at band room								
C8	Provide writing boards and trackboards at band room and classrooms	SF	640	8.5	5440	3	1920	7360	
C9	Replace lockers and benches at locker rooms	LS	1	1000	1000	450	450	1450	
C10	Replace scorers table	PC	120	320	38400	40	4800	43200	
C11	Provide ADA bench at shower	EA	1	350	350	80	80	430	
C12	Replace toilet accessories provide grab bar at ADA toilets	EA	2	400	800	150	300	1100	
C13	Replace toilet stall doors at restrooms	EA	1	35	35	35	35	70	
C14	Provide new toilet partition at office restrooms	EA	6	87	522	55	330	852	
D1	Retape and paint ceiling boards	LF	10	22	220	25	250	470	
D2	Replace missing ceiling board and paint	SF			0		0	0	
D3	Replace roof gutter interior closure trim, continuous	SF	64	5	320	5	320	640	
D4	Replace ACT and suspension grid	LF	200	3.5	700	5	1000	1700	
D5	Provide water resistant gypsum board ceiling	SF	3450	2.25	7762.5	2.5	8625	16387.5	
D6	Replace damage roof insulation at classroom, approx 32 sf	SF	1882	2.5	4705	4	7528	12233	
D7	Provide exterior cement board soffit at east and west gymnasium entrance	SF	32	2	64	4.5	144	208	
D7	Provide exterior cement board soffit at east and west gymnasium entrance	SF	418	1.8	752.4	2.5	1045	1797.4	



ITEM	DESCRIPTION	EA	10		120	1200	100	1000	2200
CE	Concrete Pedestal Encasement	EA	10						
CI	Concrete Infil	SF	166		4	664	8	1328	1992
CO	Concrete Overhang	CY	1		300	300	400	400	700
CS	Concrete Spall Repair	SF	18		12	216	14	252	468
FC	Floor Crack Repair	LF	26		8	208	10	260	468
MC	CMU Wall Partition	SF	216		4	864	3	648	1512
RR	Roof Sheathing Replacement	SF	260		2.5	650	3	780	1430
WC	Wall Crack Repair	LF	58		8	464	10	580	1044
WD	Concrete Wall Demolition Door/Window Opening	SF	1300		0	0	0.85	1105	1105
WF	Door/Window Frame Opening	CY	5.8		100	580	50	290	870
1	Remove Closer Angle and Replace New	EA	4		60	240	55	220	460
2	Replace Corroded Bolts w/ New Bolts "In Kind" @ Diagonal Brace Connection	EA	32		4	128	8	256	384
3	Remove Corroded Flange Bolts to Wall @ Mid Height & Replace with New Bolts	EA	32		4	128	8	256	384
	<b>MECHANICAL WORKS</b>								
1	Remove/Dispose exhaust fan and wall caps	LS	1			0	60	60	60
2	Refurbish existing package air conditioning unit. Remode/Dispose supply and return main duct, insulation and supports.	LS	1		3400	3400	4500	4500	7900
3	Remove/dispose ductwork insulation and supports. Return grills and supply to be re used; clean and paint s necessary.	LS	1		100	100	1200	1200	1300
4	Remove/dispose air handling unit including all ductwork, insulation, supports, grilles, diffusers, RS/RL line and condensate drain piping.	LS	1			0	350	350	350
5	Remove/dispose condensing unit on roof. Patch up RS/RL line penetration thru roof.	LS	1			0	180	180	180
	<b>PLUMBING WORKS</b>								
1	Remove/replace lavatory sink, faucet trim.	EA	1		70	70	75	75	145
2	Remove/replace 2 each electric water coolers.	EA	2		785	1570	250	500	2070
3	Remove/replace electric water heater. Connect existing cold and hot water lines to new electric waterheater	LS	1		540	540	250	250	790
4	Remove/replace service sink and faucet. Clean and repair funnel drain as necessary	LS	1		230	230	300	300	530
5	Verify performance and condition of plumbing fixtures including faucets, showers, floor drains and cleanouts. Clean and repair as necessary								
6	Remove/replace urinal and install per ADA requirements.	LS	1		1200	1200	800	800	2000
7	Remount 2 each lavatory sinks per ADA requirements and provide lavatory shielding guards for each	EA	1		450	450	200	200	650
8	Remove/replace 4 each hose bibbs and provide vacuuum breakers for each	EA	2		230	460	250	500	960
		EA	4		25	100	20	80	180



Schedule of Values ( Basic Bid)

Ocean View Middle School Gymnasium Repair

IFB -008-2009 ( Re-bid)

ITEM	DESCRIPTION	UNIT	QTY	MATERIALS		LABOR		BID AMOUNT
				U/P	BASIC	U/P	AMOUNT	
<b>ARCHITECTURAL WORKS</b>								
A1	Replace court floor system (7MM)	SF	4194	30	125820	10	41940	BASIC 167760
A2	REMOVAL AND DISPOSAL		4194		0			
A3	Paint concrete floor at gymnasium	SF	2958	4	11832	2	5032.8	5032.8
A4	Provide new VCT at band room, band storage, classrooms and offices	SF	2804	2.25	6309	2	5916	17748
A5	Clean and regrout floor tiles	SF	4900	0.1	490	0.5	5608	11917
B1	Clean floor and repair floor cracks	LF	0	0	0		2450	2940
B2	Remove existing wood partition walls and doors at locker room	LF	52	0	0	9	468	0
B3	Clean and paint all interior and exterior walls, exposed conduits, concrete gutters and structures							468
B3	Clean and regrout wall tiles	SF	33200	1.1	36520	1.2	39840	76360
B4	Provide rubber wall base	SF	1626	0.1	162.6		0	162.6
B5	Seal breezeblock	LF	112	0.7	78.4	1	112	190.4
C1	Replace bleachers	SF	90	4	360	3	270	630
C2	Provide fire extinguishers at locker rooms and gymnasium office	SET	4	12000	48000	4000	16000	64000
C3	Repair basketball goal winch system, clean backboards and repaint rims and structures	PC	3	150	450		0	450
C4	Provide wall padding	SET	6	150	900	500	3000	3900
C5	Replace scoreboard	SF	300	14	4200		0	4200
C6	Replace casework at band room and concessions room	SET	1	16000	16000	1200	1200	17200
C7	Provide acoustical wall panels, remove wood wall trim & acoustical wall tiles at band room	LS	1	3000	3000	3500	3500	6500
C8	Provide writing boards and trackboards at band room and classrooms	SF	640	8.5	5440	3	1920	7360
C9	Replace lockers and benches at locker rooms	LS	1	1000	1000	450	450	1450
C10	Replace scoreis table	PC	120	600	72000	40	4800	76800
C11	Provide ADA bench at shower	EA	1	350	350	80	80	430
C12	Replace toilet accessories provide grab bar at ADA toilets	EA	2	300	600	150	300	900
C13	Replace toilet stall doors at restrooms	EA	1	35	35	35	35	70
C14	Provide new toilet partition at office restrooms	EA	6	87	522	55	330	852
D1	Retape and paint ceiling boards	LF	10	22	220	25	250	470
D2	Replace missing ceiling board and paint	SF			0		0	0
D3	Replace roof gutter interior closure trim, continuous	SF	64	5	320	5	320	640
D4	Replace ACT and suspension grid	LF	200	3.5	700	5	1000	1700
D5	Provide water resistant gypsum board ceiling	SF	3450	2.5	8625	2.5	8625	17250
D6	Replace damage roof insulation at classroom, approx 32 sf	SF	1882	2.5	4705	4	7528	12233
D7	Provide exterior cement board soffit at east and west gymnasium entrance	SF	32	2	64	4.5	144	208
		SF	418	1.8	752.4	2.5	1045	1797.4



ITEM	EA	10	120	1200	100	1000	2200
CE Concrete Pedestal Encasement	EA	10	120	1200	100	1000	2200
CI Concrete Infil	SF	166		0	8	1328	1328
CO Concrete Overhang	CY	1		0	400	400	400
CS Concrete Spall Repair	SF	18	12	216	14	252	468
FC Floor Crack Repair	LF	26	8	208	10	260	468
MC CMU Wall Partition	SF	216	4	864	3	648	1512
RR Roof Sheathing Replacement	SF	260	2.5	650	3	780	1430
WC Wall Crack Repair	LF	58	8	464	10	580	1044
WD Concrete Wall Demolition Door/Window Opening	SF	1300	0	0	0.85	1105	1105
WF Door/Window Frame Opening	CY	5.8	100	580	50	290	870
1 Remove Closer Angle and Replace New	EA	4	60	240	55	220	460
2 Replace Corroded Bolts w/ New Bolts "In Kind" @ Diagonal Brace Connection	EA	32	4	128	8	256	384
3 Remove Corroded Flange Bolts to Wall @ Mid Height & Replace with New Bolts	EA	32	4	128	8	256	384
				0			
				0			
				0			
				0			
<b>MECHANICAL WORKS</b>							
1 Remove/Dispose exhaust fan and wall caps	LS	1		0	60	60	60
2 Refurbish existing package airconditioning unit. Remode/Dispose supply and return main duct, insulation and supports.							
3 Remove/dspose ductwork insulation and supports. Return grills and supply to be reused; clean and paint s necessary.	LS	1	3400	3400	4500	4500	7900
4 Remove/dspose air handling unit including all ductwork, insulation, supports, grilles, diffusers, RS/RL line and condensate drain piping.	LS	1	100	100	1200	1200	1300
5 Remove/dspose condensing unit on roof. Patch up RS/RL line penetration thru roof.	LS	1		0	350	350	350
					180	180	180
<b>PLUMBING WORKS</b>							
1 Remove/replace lavatory sink, faucet trim							
2 Remove/replace 2 each electric water coolers	EA	1	70	70	75	75	145
3 Remove/replace electric water heater. Connect existing cold and hot water lines to new electric waterheater	EA	2	450	900	250	500	1400
4 Remove/replace service sink and faucet. Clean and repair funnel drain as necessary	LS	1	380	380	250	250	630
5 Verify performance and condition of plumbing fixtures including faucets, showers, floor drains and cleanouts. Clean and repair as necessary	LS	1	230	230	300	300	530
6 Remove/replace urinal and install per ADA requirements.	LS	1	1200	1200	800	800	2000
7 Remount 2 each lavatory sinks per ADA requirements and provide lavatory shielding guards for each.	EA	1	450	450	200	200	650
8 Remove/replace 4 each hose bibbs and provide vaccuum breakers for each	EA	2	230	460	250	500	960
	EA	4	25	100	20	80	180









OFFICE OF THE PUBLIC AUDITOR

**Appendix A: Notice of Appeal Form  
PROCUREMENT APPEAL**

**RECEIVED**  
OFFICE OF THE PUBLIC AUDITOR  
PROCUREMENT APPEALS

AUG 28 2009

TIME: 4:23 pm  
BY: R  
FILE No. OPA-PA 09-006

**PART I- To be completed by OPA**

In the Appeal of \_\_\_\_\_ )  
 )  
(Name of Company), APPELLANT )  
 )  
 )  
 )

**NOTICE OF APPEAL**

Docket No. OPA-PA 09-006

**PART II- Appellant Information**

Name: Eons Enterprises Corporation  
Mailing Address: 118 E. Marine Corps Drive  
Suite B2, Eons Commercial Bldg.  
Dededo, Guam 96929  
Business Address: \_\_\_\_\_  
Daytime Contact No: 637-6869

**I. PART III- Appeal Information**

- A) Purchasing Agency: Guam Public School System
- B) Identification/Number of Procurement, Solicitation, or Contract: GPSS IFB 008-2009 (Re-Bid)
- C) Decision being appealed was made on 08/19/2009 (date) by:  
 Chief Procurement Officer     Director of Public Works     Head of Purchasing Agency

*Note: You must serve the Agency checked here with a copy of this Appeal within 24 hours of filing.*

- D) Appeal is made from:  
(Please select one and attach a copy of the Decision to this form)  
 Decision on Protest of Method, Solicitation or Award  
 Decision on Debarment or Suspension  
 Decision on Contract or Breach of Contract Controversy  
(Excluding claims of money owed to or by the government)  
 Determination on Award not Stayed Pending Protest or Appeal  
(Agency decision that award pending protest or appeal was necessary to protect the substantial interests of the government of Guam)

E) Names of Competing Bidders, Offerors, or Contractors known to Appellant:

Z-4 Corporation  
Loyal Pacific Corporation  
Hubtec International Corporation  
\_\_\_\_\_  
\_\_\_\_\_

**PART IV- Form and Filing**

In addition to this form, the Rules of Procedure for Procurement Appeals require the submission together with this form of additional information, including BUT NOT LIMITED TO:

1. A concise, logically arranged, and direct statement of the grounds for appeal;
2. A statement specifying the ruling requested;
3. Supporting exhibits, evidence, or documents to substantiate any claims and the grounds for appeal unless not available within the filing time in which case the expected availability date shall be indicated.

*Note: Please refer to 2 GAR § 12104 for the full text of filing requirements.*

**II. PART V- Declaration Re Court Action**

Pursuant to 5 GCA Chapter 5, unless the court requests, expects, or otherwise expresses interest in a decision by the Public Auditor, the Office of the Public Auditor will not take action on any appeal where action concerning the protest or appeal has commenced in any court.

The undersigned party does hereby confirm that to the best of his or her knowledge, no case or action concerning the subject of this Appeal has been commenced in court. All parties are required to and the undersigned party agrees to notify the Office of the Public Auditor within 24 hours if court action commences regarding this Appeal or the underlying procurement action.

Submitted this 28<sup>th</sup> day of AUG, 2009.

By: Daniel Bern  
APPELLANT Eons Enterprises Corporation

or

By: [Signature]  
Appellant's Duly Authorized Representative ~~Man...~~  
(Address) FRANK WU, President  
(Phone No.)

APPENDIX A

**BERMAN  
O'CONNOR &  
MANN**

Attorneys at Law

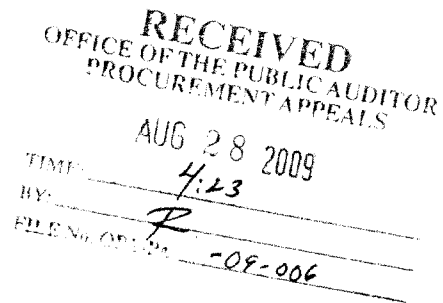
Suite 503, Bank of Guam Building  
111 Chalan Santo Papa  
Hagåtña, Guam 96910  
Tele. 671-477-2778  
Fax 671-477-4366  
Website: [www.pacific-lawyers.com](http://www.pacific-lawyers.com)  
Email: [gatorlaw@guam.net](mailto:gatorlaw@guam.net)

**PROCUREMENT APPEAL**  
By: Eons Enterprises Corporation

August 28, 2009

**VIA HAND DELIVERY**

Office of the Public Auditor  
Suite 401, DNA Building  
238 Archbishop Flores Street  
Hagatna, Guam 96910



To Whom It May Concern:

**I. GROUNDS FOR APPEAL**

On August 6, 2009, the Guam Department of Education ("DOE") awarded the Oceanview Middle School Gymnasium Repairs Contract to Z-4 Corporation based on a total bid award of \$810,000.00. Exhibit "1".

Subsequently, Eons Enterprises Corporation ("Eons"), a competing bidder, delivered on August 6, 2009, notice of protest and request for a re-evaluation of the bid awards on the Oceanview Middle School Gymnasium Repair Contract. Exhibit "2".

Eons' bid in the amount of \$729,098.50 as its alternate bid was understood and recorded by DOE. DOE, Bidders Sheet and Tabulation, Exhibit "3".

On August 19, 2008, DOE, through its Supply Management Administrator, Mr. Roque Alcantara, delivered Notice of Rejection of the Eons protest. Exhibit "4".



Eons Table and Spreadsheet highlights the distinctions between the Eons basic and alternate bid amounts. Exhibit "5".

The grounds for the appeal are as follows:

1. Eons had the lowest qualified and responsible bid in the alternate amount of \$729,098.50 to justify the award of this Contract to Eons.
2. Eons submitted both an alternate and a basic bid in order to better serve the public interest - allowing the Government two options - all consistent with Bid Instruction, § 9 *Bidder's Prices*. Exhibit "6".
3. On information and belief, the prevailing bidder Z-4 Corporation did not submit unit prices in the same manner as required and submitted by Eons. Eons' discovery and investigation remain pending and unanswered. Letter dated August 25, 2009, Attorney Daniel Berman to DOE Roque Alcantara, Exhibit "7".

## II. THE RULING REQUESTED

The Public Auditor is requested to review and reverse the award of this public Contract and direct DOE to award the Contract to the lowest qualified and responsible bid of Eons in the alternate amount of \$729,098.50.

## III. SUPPORTING EXHIBITS, EVIDENCE OF DOCUMENTS

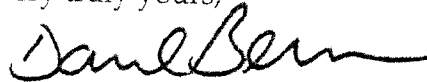
Attached hereto are Exhibits as follows:

1. August 6, 2009 Award of Oceanview Middle School Gymnasium Repairs Contract to Z-4 Corporation.
2. August 6, 2009 Notice of Protest and Request for Re-Evaluation by Eons Enterprises Corporation.
3. DOE, Bidders Sheet and Tabulation.
4. August 14, 2008, DOE, Supply Management Administrator, Notice of Rejection of Eons' Protest.
5. Eons Table and Spreadsheet comparison and contrast between Basic and Alternate Eons bids.

6. Bid Instruction, § 9 Bidder's Prices.
7. Letter dated August 25, 2009 from Attorney Daniel Berman to DOE Roque Alcantara Letter
8. Proposal of Eons and related Alternate bid in the amount of \$729,098.50.

I look forward to hearing from you regarding the above. Please contact me if you have any questions.

Very truly yours,



Daniel J. Berman

Attachments: Exhibits "1" through "8", as stated.

# Exhibit "1"



Nerissa Bretania-Shufar, Ph.D.  
Superintendent of Education

**OFFICE OF SUPPLY MANAGEMENT  
GUAM DEPARTMENT OF EDUCATION**

Manuel F.L. Guerrero / Administration Building  
2nd Floor, Suite B-202  
Hagåtña, Guam 96932  
Telephone: (671) 300-1581  
Fax: (671) 472-5001



Salvatore C.T. Sganbellotti  
Deputy Superintendent, Finance and Administrative Services

Roque A. Alcantara  
Administrator, Supply Management

**BID STATUS**

August 06, 2009

Eon's Enterprises  
118 E. Marine Drive  
Dededo, Guam 96929  
Tel: (671) 637-6869  
Fax: (671) 637-6871

Attn: Gilbert Gatus

Reference: Oceanview Middle School Gymnasium Repairs  
Formal Bid: GPSS IFB 008-2009 (Re-Bid)

Dear Mr. Gatus,

**Buenas Yan Saludas,** The following information is provided for your perusal and is the evaluation results of the aforementioned reference.

After further review of the bid documents, the award is made to the lowest most responsive and responsible bidder.

Recommendation for award: Z-4 Corporation  
P.O. Box 23543  
GMF, Guam 96921  
Tel: (671) 898-4855  
Fax: (671) 649-0322

Total Bid Award: \$810,000.00

Please acknowledge receipt of this document and return via fax to Attn: Al Garcia, Buyer Supervisor II at 472-5001.

Should you have any questions or concerns regarding this matter, please do not hesitate or feel free to call me at 300-1581.

Sincerely,

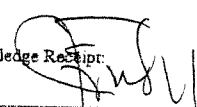
  
ROQUE A. ALCANTARA  
Administrator, Supply Management

Acknowledge Receipt:

Name: (Sign/Print)

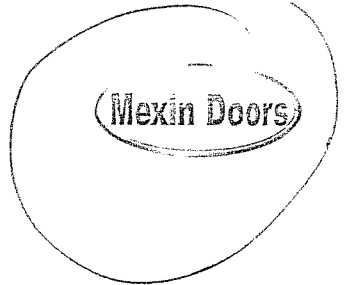
Date

Time

  
08/06/09 4:58

# STEEL FIRE-PROOF ROLLING SHUTTER

防火卷簾



## Reasonable Configuration

Mexin rolling shutter collection is manufactured in strict conformance to the National Standard. Its design is for both commercial and residential use where fire resistance is required.

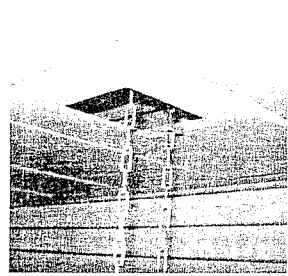
- ※ Safety function build with outstanding quality.
- ※ Heavy weight rolling sheet steel.
- ※ Heavy duty sliding rail system for good performance.
- ※ Electric, manual and remote opening and closing systems.
- ※ Networking surveillance system linked to fire alarms and local fire prevention facilities.
- ※ Advanced technology. Smoke and heat detectors to avoid spread of smoke and fire.



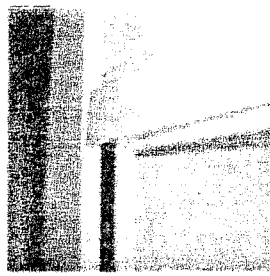
Smoke detector  
烟感器



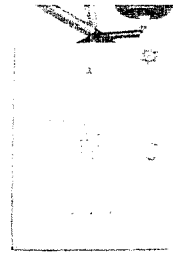
Heat detector  
溫感器



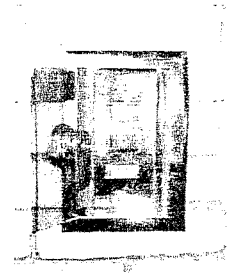
Manual operator  
手控系統



Heavy duty sliding rail  
導軌槽



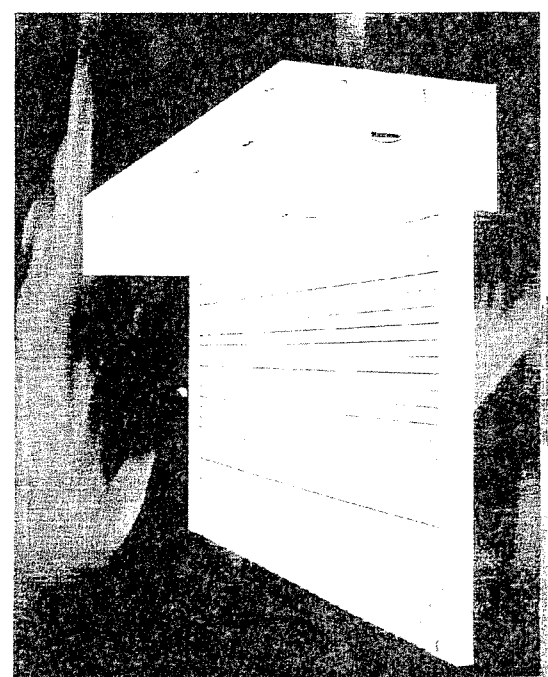
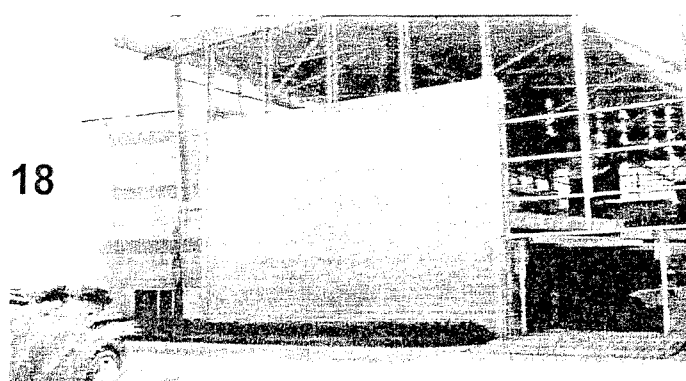
Control case  
控制箱



Push button manual operator  
按鈕盒

- ◆ 鋼片厚實，導軌堅固，採用鋼製，耐火材料，耐火性能優異。
- ◆ 國內首創。
- ◆ 電控、手動、遙控三種開閉方式，適用於各種環境。
- ◆ 電控箱可與消防中心連線，並用熱感煙感探測，火警時閉。
- ◆ 採用具有鎖扣功能可阻煙阻火，火警時能自動閉鎖。
- ◆ 可選配煙感器、溫感器，測知火警自動閉鎖。

## EXHIBIT 18





October 29, 2009

Memorandum to File

From: Buyer Supervisor II  
Subject: Response to action taken on award  
Reference: IFB 008-2009

On June 24, 2009, the aforementioned reference opened as schedule at 10:00 am.

There were four bids that were submitted and accepted prior to the bid opening date/time as scheduled, namely:

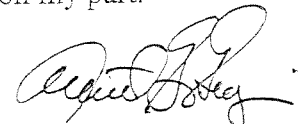
1. Loyal Pacific
2. Z4 Corporation
3. Eon's Enterprises
4. HUBTEC International Corp.

In attendance of the bid opening, a representative from each Company was in attendance except for Loyal Pacific Corp., inclusive of attendees were Procurement Personnel (Al Garcia, Buyer Supervisor II, Edith Pinault, Buyer II) as required.

Upon completion of the Bid Opening, each company representative was asked to initial by their company name for verification.

After further review, the first recommendation for award was to Eon's Ent., who had submitted the Basic bid and a alternate bid price with the actual breakdown and that the award be made on the alternate bid price, however, when it was brought to the attention of the Administrator, Supply Management, he indicated that it was unacceptable because we never asked for an alternate bid price. Upon verification on the General Terms and Conditions, Item #9, titled, "Bidder's Price" was marked off. It states in part, "The Government will consider not more than two (2) (Basic and Alternate) item prices and the Bidder shall explain fully each price..."

In addition, he also stated that, "He reviewed the documents and that they don't meet the specifications." Furthermore, after inputting the information on the requisition and making the award to Z4, I chose not to print the Purchase Order because I was waiting for Z4 to provide me a Performance Guarantee Bond ten days after notification of award and that I will be able to make necessary changes if Z4 failed to provide the required documents, however, I was instructed to print the Purchase Order. Since then no further action was taken on my part.

  
ALBERT G. GARCIA

**EXHIBIT 19**

19. **BRAND NAMES:** Any reference in the Solicitation to manufacturer's Brand Names and number is due to lack of a satisfactory specification of commodity description. Such reference is intended to be descriptive, but not restrict, and for the sole purpose of indicating to prospective bidders a description of the article or services that will be satisfactory. Bids on comparable items will be considered provided the bidder clearly states in his bid the exact articles he is offering and how it differs from the original specification.
20. **DESCRIPTIVE LITERATURE:** Descriptive literature(s) as specified in this solicitation must be furnished as a part of the bid and must be received at the date and time set for opening Bids. The literature furnished must clearly identify the item(s) in the Bid. The descriptive literature is required to establish, for the purpose of evaluation and award, details of the product(s) the bidder proposes to furnish including design, materials, components, performance characteristics, methods of manufacture, construction, assembly or other characteristics which are considered appropriate. Rejection of the Bid will be required if the descriptive literature(s) do not show the product(s) offered conform(s) to the specifications and other requirements of this solicitation. Failure to furnish the descriptive literature(s) by the time specified in the Solicitation will require rejection of the Bid.
21. **SAMPLES:** Sample(s) of item(s) as specified in this solicitation must be furnished as a part of the bid and must be received at the date and time set for opening Bids unless otherwise specified in the solicitations.. The sample(s) should represent exactly what the Bidder proposes to furnish and will be used to determine if the item(s) offered complies with the specifications. Rejection of the Bid will be required if the sample(s) do not show that the product(s) offered conform(s) to the specifications and other requirements of this solicitation. Failure to furnish the sample(s) by the time specified in the Solicitation will require rejection of the Bid.
22. **LABORATORY TEST:** Contractor is required to accompany delivery of his goods with a Laboratory Test Report indicating that the product he is furnishing the Government meets with the specification. This report is on the Bidder's account and must be from a certified Testing Association.
23. **AWARD, CANCELLATION & REJECTION:** Award shall be made to the lowest responsible and responsive Bidders, whose bid is determined to be the most advantageous to the Government, taking into consideration the evaluation factors set forth in this solicitation. No other factors or criteria shall be used in the evaluation. The right is reserved as the interest of the Government may require to waive any minor irregularity in bids received. The Administrator, Supply Management shall have the authority to award, cancel, or reject bids, in whole or in part for any one or more items if he determines it is in the public interest. Award issued to the lowest responsible bidder within the specified time for acceptance as indicated in the solicitation, results in a binding contract without



OFFICE OF THE PUBLIC AUDITOR  
Doris Flores Brooks, CPA, CGFM  
Public Auditor  
**PROCUREMENT APPEALS**

1  
2  
3  
4  
5 IN THE APPEAL OF,

6 Eons Enterprises Corporation

7 Appellant.

APPEAL NO. OPA-PA-09-006

**ORDER OF DISMISSAL**

8  
9 To: **Attorney for Appellant: Eons Enterprises Corporation**

10 Daniel J. Berman, Esq.  
11 Berman O'Connor & Mann  
12 Suite 503, Bank of Guam Bldg.  
13 111 Chalan Santo Papa  
14 Hagatna, Guam 96910

VIA FACSIMILE 671-477-4366

**Attorney for Appellee: Guam Department of Education**

15 Mr. Fred Nishihira  
16 Legal Counsel  
17 Guam Department of Education (GDOE)  
18 P.O. Box DE  
19 Hagatna, Guam 96932

VIA FACSIMILE 671-472-5003

**Appellee: General Services Administration, Department of Administration**

20 Mr. Pete San Nicolas  
21 GSA/GDOE, SMA (Acting)  
22 General Services Administration  
23 Department of Administration  
24 148 Route 1 Marine Corps Drive  
25 Piti, Guam 96925

VIA FACSIMILE 671-475-1727

26 In a letter, received by the Office of Public Accountability (OPA) Procurement Appeals  
27 on Monday, September 14, 2009 at 1:45 PM, Daniel J. Berman, Esq., counsel for Eons  
28 Enterprises, the Appellant, informed Hearing Officer Robert Cruz, Esq., of his client's decision

Order of Dismissal - 1

Suite 401, DNA Building  
238 Archbishop Flores Street, Hagatna, Guam 96910  
Tel (671) 475-0390 · Fax (671) 472-7951  
www.guamopa.org · Hotline: 47AUDIT (472-8348)

**EXHIBIT 21**

1 to withdraw Procurement Appeal No. OPA-PA-09-006 filed on August 28, 2009 at 4:23 PM.  
2 Decision arises from action taken by the Guam Department of Education (GDOE) and General  
3 Services Administration (GSA/DOA), the Appellee, to cancel GPSS IFB No. 008-5-2009 (Re-  
4 Bid), Oceanview Middle School Gymnasium Repairs. The GSA/DOA and GDOE met on  
5 Monday, September 14, 2009 and came to an understanding with regard to the appeal. In  
6 response to the appellant's request, the Guam Public Auditor hereby orders the appeal to be  
7 DISMISSED without prejudice.  
8

9 **SO ORDERED** this 16<sup>th</sup> day of September, 2009 by:  
10

11   
12

13 \_\_\_\_\_  
14 DORIS FLORES BROOKS, CPA, CGFM  
15 PUBLIC AUDITOR  
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MAIR, MAIR, SPADE & THOMPSON, L.L.C.  
 Attorneys at Law  
 238 A.F.C. Flores Street  
 Suite 801, DNA Building  
 Hagåtña, Guam 96910  
 Telephone: (671) 472-2089/90  
 Facsimile: (671) 477-5206

**RECEIVED**  
 OFFICE OF THE PUBLIC AUDITOR  
 PROCUREMENT APPEALS

NOV 12 2009

TIME: 4:10 PM  
 BY: JA  
 FILE No. OPA-PA 09-012

Attorneys for Z4 Corporation

OFFICE OF THE PUBLIC AUDITOR  
 PROCUREMENT APPEAL

IN THE APPEAL OF )  
 )  
 Z4 CORPORATION )  
 )  
 Appellant. )  
 \_\_\_\_\_ )

**NOTICE OF APPEAL**

**Docket No. OPA-PA** 09-012

Appellant Information:

Name: **Z4 CORPORATION**  
 P.O. Box 23543  
 GMF Barrigada, Guam 96921

c/o Mair, Mair, Spade & Thompson, L.L.C.  
 238 AFC Flores Street  
 Suite 801 DNA Bldg.  
 Hagåtña, Guam 96910

Appeal Information:

- A. Purchasing Agency: **Guam Department of Education/Guam Public School System**
- B. Identification Number of Procurement, Solicitation or Contract:  
**GPSS IFB 008-2009 (Re-Bid)**

**COPY**

- C. Award Number: **PO#200901666**
- D. Decisions being appealed were issued on October 29, 2009, and November 3, 2009, by the Chief Procurement Officer of the General Services Agency.
- E. Appeal is made from:  
**Decision and Protest of Method, Solicitation or Award.** Copies of said decisions are attached hereto and marked "Exhibit 1" and "Exhibit 2", respectively.
- F. Names of Competing Bidders, Offerors, or Contractors Known to Appellant:  
**Eons Enterprises Corporation**  
**Loyal Pacific Corporation**  
**Hubtec International Corporation**
- G. The supporting exhibits to substantiate the claims in the grounds of this appeal are attached to the accompanying document entitled Grounds of Appeal.

**ADDITIONAL EXHIBITS TO BE SUBMITTED**

Appellant hereby reserves the right to submit additional exhibits after the submission of this appeal. Appellant anticipates receiving other necessary documents after the anticipated Hearing Officer has the authority to require the production of documents, as contemplated under 2 GAR § 12109(h)(i). In addition, Appellant may submit additional exhibits in response to the Agency Report.

**RELIEF REQUESTED**

The Appellant requests the OPA affirm the award of the GPSS IFB 008-2009 (Re-Bid) (the "IFB") to Z4. In the alternative, Z4 requests the OPA cancel the entire IFB.

**DECLARATION REGARDING COURT ACTION**

The undersigned party does hereby confirm that to the best of his knowledge, no case or action concerning the subject of this Appeal has been commenced in court. All parties are required to and the undersigned party agrees to notify the Office the Public Auditor within 24 hours if court action commences regarding this Appeal or the underlying procurement action.

Submitted this 12<sup>th</sup> day of November, 2009.

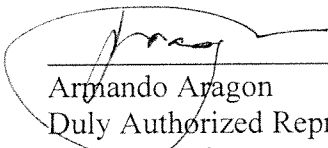
**MAIR, MAIR, SPADE & THOMPSON, L.L.C.**  
Attorneys for Appellant Z4 Corporation

By   
\_\_\_\_\_  
**AARON R. JACKSON**

**VERIFICATION**

I, Armando Aragon, do hereby declare that I am the Duly Authorized Representative for **Z4 Corporation**; that I have read the foregoing **NOTICE OF APPEAL** and the accompanying **GROUND FOR APPEAL** and that the same is true of my own knowledge, except as to those matters which are stated on information and belief, and as to those matters, I believe them to be true.

Executed this 12<sup>th</sup> day of November, 2009.

  
\_\_\_\_\_  
Armando Aragon  
Duly Authorized Representative of  
Z4 Corporation

MAIR, MAIR, SPADE & THOMPSON, L.L.C.  
Attorneys at Law  
238 A.F.C. Flores Street  
Suite 801, DNA Building  
Hagåtña, Guam 96910  
Telephone: (671) 472-2089/90  
Facsimile: (671) 477-5206

Attorneys for Z4 Corporation

RECEIVED  
OFFICE OF THE PUBLIC AUDITOR  
PROCUREMENT APPEALS

NOV 12 2009

TIME: 4:10pm  
BY: JH  
FILE No. OPA-PA 09-012

OFFICE OF THE PUBLIC AUDITOR

PROCUREMENT APPEAL

IN THE APPEAL OF )  
 )  
Z4 CORPORATION )  
 )  
Appellant. )  
\_\_\_\_\_ )

HEARING REQUEST

Docket No. OPA-PA 09-012

Pursuant to 2 GAR § 12108(a), the Appellant does hereby request a hearing on the appeal stated above.

Submitted this 12<sup>th</sup> day of November, 2009.

MAIR, MAIR, SPADE & THOMPSON, L.L.C.  
Attorneys for Appellant Z4 Corporation

By   
AARON R. JACKSON

P098132.ARJ

COPY