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IN THE OFFICE OF PUBLIC ACCOUNTABILITY

In the Appeal of

DOCKET NO. OPA-PA-15-009

Korando Corporation,

Appellant.

**REQUEST FOR DISPOSITION OF
KORANDO'S MOTION FOR
SUMMARY JUDGMENT**

Korando Corporation ("Korando"), through counsel, requests that the Public Auditor grant Korando Corporation's ("Korando's") partial Motion for Summary Judgment filed on November 6, 2015 ("Korando's MSJ")¹.

Korando's MSJ should be granted because: (1) Korando has demonstrated there are no material issues of fact in dispute as to the matters (described below) on which summary judgment is requested; and, (2) the Department of Public Works ("DPW") did not oppose the Korando's MSJ and the motion should therefore be deemed unopposed.

Korando is seeking summary judgment on the following issues:

1. A finding that Stanley Consultant Inc.'s ("Stanley") obligations under the CM Contract required that it maintain accurate and correct records, including the Submittal Logs, which were a part of the project contract documents.

¹ DPW was served with Korando's MSJ on November 6, 2015.

2. A finding that the four (4) critical submittals (“Critical Submittals”) that received a status of “Exceptions as Noted” were approved by Stanley, and which notation meant that Korando did not have to resubmit, unless expressly stated.

3. A finding that the deletion of the Critical Submittals by Stanley from the Submittal Logs was an improper alteration of the Submittal Logs and project contract documents. In deleting the Critical Submittals from the Submittal Logs, Stanley improperly altered the project contract documents and breached its CM Contract. Such acts by Stanley constitute misconduct by Stanley.

4. The four (4) critical submittals that were improperly deleted by Stanley were:

A. **Alternate Phasing Plan Submittal No. 562.001-02**

Original Status: 11/4/14 status “Exceptions as Noted”

Deleted from Submittal Log: 3/10/2015

B. **GPA Approved Underground Electrical Plan (Preliminary) Submittal No. 636-005-01 (See Korando’s Response at pp. 13-14)**

Original Status: 4/22/15 status “Exceptions as Noted”

Deleted from Submittal Log: 6/16/2015

C. **Traffic Control Plan Submittal No. 156.001--1**

Prior Status: 1/13/2015 status “No Exceptions Taken”

Deleted from Submittal Log: 3/10/2015

D. **As Built Survey Submittal No. 104-001-01**

Original Status: 11/14/14 status “Exceptions as Noted”

Deleted from Submittal Log: 3/10/2015

5. A finding that the deletion of the previously approved Critical Submittals created a false record that DPW used as the basis for terminating Korando.

6. A finding that there is no evidence Korando was informed of the deletion of the Critical Submittals from the Submittal Logs.

7. A finding that Korando was damaged by Stanley's misconduct when Stanley altered the contract documents to conceal the approvals in order to facilitate and support the improper termination of Korando's Contract.

Because Korando's MSJ is properly supported and was not opposed by DPW, partial summary judgment should be granted in favor of Korando.

Respectfully submitted this 23rd day of November, 2015.

CIVILLE & TANG PLLC



JOYCE C.H. TANG

Attorneys for Korando Corporation