



OFFICE OF PUBLIC ACCOUNTABILITY
Doris Flores Brooks, CPA, CGFM
Public Auditor

PROCUREMENT APPEALS

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6 IN THE APPEAL OF,

) **APPEAL NO: OPA-PA-15-009**

7 KORANDO CORPORATION,

) **DECISION AND ORDER RE**
) **APPELLANT'S MOTION FOR**
) **SUMMARY JUDGMENT**

8 Appellant
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10 To: **Purchasing Agency:**
11 Department of Public Works, Government of Guam
12 C/O Thomas P. Keeler, Esq., Assistant Attorney General
13 Office of the Attorney General, Civil Solicitor Division
14 ITC Bldg., Ste. 706
15 Tamuning, Guam, 96913
16 Facsimile: (671) 472-2493

17 **Appellant:**
18 Korando Corporation
19 C/O Joyce C.H. Tang, Esq.
20 Civile & Tang PLLC
21 330 Herman Cortez Ave., Ste. 200
22 Hagåtña, Guam, 96910
23 Facsimile: (671) 477-2511

24 **THIS MATTER** came before the Hearing Officer on November 24, 2015 for a hearing
25 for the Appellant's Motion for Summary Judgment. Byong Ho and Kiwook Hahn were present
26 on behalf of Appellant and were represented by Appellant's Counsel of Record, Joyce Tang,
27 Esq. The Purchasing Agency was represented by its counsel of record, Assistant Attorney
28 General Tom Keeler, Esq. After reviewing the record in this matter and after hearing the
arguments of the parties, the Hearing Officer hereby FINDS and ORDERS the following:

1. Rule 56, Guam Rules of Civil Procedure (GRCP) cited by the Appellant in support of its motion for Summary Judgment is inapplicable to this matter. Procurement Appeals hearing shall be as informal and as may be reasonable and appropriate under the circumstances and shall not be bound by statutory rules of evidence or by technical or formal rules of procedure. 2 G.A.R., Div. 4, Chap. 12, §12108(d). Hence, summary judgment as permitted by Rule 56,

1 GRCP, in civil cases being heard before the Superior Court of Guam and the cases interpreting
2 that rule are inapplicable to this matter because this proceeding is an informal procurement
3 appeal that is not bound by such formal rules of procedure.

4 2. The Hearing Officer may find that there are no genuine issues of material fact
5 concerning an issue when the facts are clear from the record and not in dispute. Generally, the
6 Hearing Officer has the authority to settle, simplify, or fix the issues in a proceeding, or to
7 consider other matters that may aid in the expeditious disposition of a proceedings either by
8 consent of the parties or upon such officer's own motion. 2 G.A.R., Div. 4, Chap. 12, §12109(a).
9 Additionally, such authority may be used to find that there are no genuine issues of material fact
10 concerning an issue when the facts are clear from the record and the parties do not dispute them.
11 *In the Appeal of Guam Pacific Enterprises, Inc.*, OPA-PA-09-003, Decision and Order Denying
12 Appellant's Motion for Summary Judgment dated September 18, 2009, (Office of Public
13 Accountability).

14 3. There are some facts alleged in the Appellant's motion that are clear from the record
15 and which are not disputed by the parties. Applying the aforementioned standard, the Hearing
16 Officer hereby finds that there is only one issue raised by the Appellant's motion for Summary
17 Judgment which is clear in the record and which the parties do not dispute. That fact is that the
18 following four (4) documents submitted by the Appellant during the project at issue in this
19 matter were critical or very important documents concerning the project:

20 (a) Alternate Phasing Plan, Submittal No. 562.001-02.

21 (b) GPA Approved Underground Electrical Plan (Preliminary), Submittal No.
22 636-005-01.

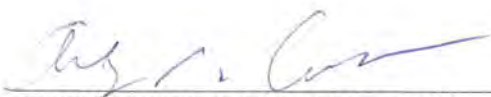
23 (c) Traffic Control Plan, Submittal No. 156.001-1,

24 (d) As Built Survey, Submittal No. 104-001-01.

25 4. The Hearing Officer finds that all the other issues that were the subject of the
26 Appellant's Motion for Summary Judgment, or either not clear in the record, or are disputed by
27 the parties, or are both not clear in the record and disputed by the parties. The parties may still
28 stipulate to those facts pursuant to 2 G.A.R., Div. 4, Chap. 12, §12108(d) at or prior to the

1 hearing. Otherwise, the Appellant will have to prove their existence at the December 9, 2015
2 hearing in this matter.

3 **SO ORDERED THIS 3rd** day of December, 2015 by:

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9 ANTHONY R. CAMACHO, ESQ.
10 Hearing Officer
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