The Honorable
Eddie Baza Calvo
Governor

The Honorable
Ray Tenorio
Lieutenant Governor

public works
DIPATTAMENTON CHE'CHO PUPBLEKO
Glenn Leon Guerrero
Director
Andrew S. Leon Guerrero
Deputy Director

Vice Speaker Therese M. Terlaje

34GL-18-2442

OCT 18 2018
Time: 10:10
Received by:

TRANSMITTAL
19-006

DATE: 10/17/2018

TO: HONORABLE EDDIE BAZA CALVO, GOVERNOR OF GUAM
HONORABLE RAY TENORIO, LT. GOVERNOR OF GUAM
JON FERNANDEZ, SUPERINTENDENT DEPARTMENT OF EDUCATION
THERESE TERLAJE, ACTING SPEAKER OF THE 34TH GUAM LEGISLATURE
MARK B. MENDIOLA, GUAM EDUCATION BOARD CHAIRMAN

FROM: DEPUTY DIRECTOR OF PUBLIC WORKS

SUBJECT: PROCUREMENT APPEAL OPA-PA-17-009

2018 OCT 18 AM 10:25

( ) For Your Reference
( ) As Per Our Discussion
( ) As Requested
(X) For Your Review

( ) For Acceptance/Approval
( ) For Your Signature
( ) Please Forward To:

Should you have any questions, please contact us at 649-3156.

Thank You,

Linda Ibanez
Marcie Bamba
Tara Santos
PROCUREMENT CONTRACTS

10/17/18
Date

Received by:

2442

542 North Marine Corps Drive, Tamuning, Guam 96913 • (671) 646-3131• Fax (671)649-6178

The Honorable
EDDIE BAZA CALVO
Governor

The Honorable
RAY S. TENORIO
Lieutenant Governor

public works
DIPATTAMENTON CHE'CHO' PUBLEKO
GLENN LEON GUERRERO
Director
ANDREW LEON GUERRERO
Deputy Director

OCT 17 2018

MEMORANDUM

TO: Honorable Eddie Baza Calvo, Governor of Guam
Honorable Ray Tenorio, Lt. Governor of Guam
Jon Fernandez, Superintendent Department of Education
Therese Terlaje, Acting Speaker of the 34th Guam Legislature
Mark B. Mendiola, Guam Education Board Chairman

FROM: Deputy Director of Public Works

SUBJECT: Procurement Appeal OPA-PA-17-009

The Department of Public Works, Government of Guam ("DPW') and Core Tech International Corporation ("CTI') (both "parties") entered into a stipulation and order resolving CTI's appeal of DPW's decision denying CTI's protest of the July 7, 2017 Invitation for Bid for the Leasing Financing for Design, Renovation, Rehabilitation, Construction and Maintenance of Simon Sanchez High School Project No.: 730-5-1057-L- YIG (the "IFB").

Therefore, Stipulation made by the "parties" to this matter is dismissed by mutual stipulation by the parties and formal hearing that was scheduled for October 22, 2018 at 9:00 a.m., has been vacated.

As the Procurement Contracting Officer pursuant to the authority under 5GCA 5113 and 5114, the Invitation for Bid ("IFB") for the Leasing Financing for Design, Renovation, Rehabilitation, Construction and Maintenance of Simon Sanchez High School Project No.: 730-5-1057-L-YIG is canceled in its entirety.

Should you have any questions or inquiries, please contact me at 646-3131.

ANDREW LEON GUERRERO

Attachments;
Libanez 10/17/18

542 North Marine Corps Drive, Tamuning, Guam 96913 • (671) 646-3121/3232• Fax (671)649-6178

1236 fil

Suite 401 DNA Building
238 Archbishop Flores St.
Hagåtña, Guam 96910

FAX

To:	Mr. Glenn Leon Guerrero Director Department of Public Works 542 North Marine Corps Drive Upper Tumon, Guam 96913 Phone: (671)646-3121/3232 Fax: (671) 649-6178 Mr. Thomas Keeler Ms. Shannon Taitano Assistant Attorney Generals Office of the Attorney General of Guam 590 S. Marine Corps Drive, Suite 706 Tamuning, Guam 96913 Fax: (671) 472-2493	From:	Doris Flores Brooks Guam Public Auditor Office of Public Accountability
		Pages:	3 (including cover page)
CC:	Joyce C.H. Tang, Esq. Attorney for Appellant Core Tech Civille & Tang, PLLC 330 Hernan Cortez Avenue Suite 200 Hagatna, Guam 96910 Phone: (671) 472-8868 x 7 Fax: (671) 477-2511	Date:	October 15, 2018
		Phone: Fax:	(671) 475-0390 x. 204 (671) 472-7951
Re:	OPA-PA-17-009 Order Vacating Hearing RE: Appellant's Appeal		

☐ Urgent ☐ For Review ☐ Please Comment ✔ Please Reply ☐ Please Recycle

Comments:

Please acknowledge receipt of this transmittal by resending this cover page along with your firm or agency's receipt stamp, date, and initials of receiver.

Thank you,

Jerrick Hernandez
Auditor
jhernandez@guamopa.com

ompanying documents may contain confidential or privileged information. If this fax transmission, please call our office and notify us immediately. Do not anyone. Thank you.

10/15/2018
Forwarded To:
TOM / DD

OFFICE OF PUBLIC ACCOUNTABILITY

PROCUREMENT APPEALS

IN THE APPEAL OF:	APPEAL NO: OPA-PA-17-009
CORE TECH INTERNATIONAL CORP.	ORDER VACATING HEARING RE APPELLANT'S APPEAL
Appellant	

To: **Purchasing Agency:**
Department of Public Works, Government of Guam
C/O Thomas P. Keeler, Esq.
Office of the Attorney General of Guam
590 S. Marine Corps Drive, Suite 706
Tamuning, Guam, 96913
Facsimile: (671) 472-2493

Appellant:
Core Tech International Corp
C/O Joyce C.A. Tang, Esq
330 Hernan Cortez Ave., Suite 200
Hagåtña, Guam, 96910
Facsimile: (671) 477-2511

THIS MATTER, came before the Hearing Officer on October 15, 2018 pursuant to the Parties Stipulation & Order Re Appeal. Pursuant to paragraph 6 of the aforementioned Stipulation, the Hearing Re Appellant's Appeal scheduled for October 22, 2018 at 9:00 a.m., is hereby VACATED.

Parties please acknowledge receipt of this Notice and return the same to the Office of

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Public Accountability immediately.

SO ORDERED this 15th day of October, 2018 by:

Anthony R. Camacho

ANTHONY R. CAMACHO, ESQ.
Hearing Officer

Acknowledgement Receipt:

_____
Receiver's Signature

_____
Print Name

Suite 401 DNA Building
238 Archbishop Flores St.
Hagåtña, Guam 96910

RECEIVED
OCT 15 2018
DPW
Director's Office

OFFICE OF PUBLIC ACCOUNTABILITY
GUAM

FAX

To:	**Mr. Glenn Leon Guerrero** **Director** Department of Public Works 542 North Marine Corps Drive Upper Tumon, Guam 96913 Phone: (671)646-3121/3232 Fax: (671) 649 6178 **Mr. Thomas Keeler** **Ms. Shannon Taitano** **Assistant Attorney Generals** Office of the Attorney General of Guam 590 S. Marine Corps Drive, Suite 706 Tamuning, Guam, 96913 Fax: (671) 472-2493	From:	**Doris Flores Brooks** **Guam Public Auditor** Office of Public Accountability
		Pages:	6 (including cover page)
CC:	**Joyce C.H. Tang, Esq.** (Attorney for Appellant Core Tech) Civille & Tang, PLLC 330 Hernan Cortez Avenue Suite 200 Hagatna, Guam 96910 Phone: (671) 472-8868/9 Fax: (671) 477-2511	Date:	October 15, 2018
		Phone: Fax:	(671) 475-0390 x. 204 (671) 472-7951
Re:	OPA-PA-17-009 Signed Stipulation and Order RE: Appeal		

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Comments:

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Thank you.

Jerrick Hernandez
Auditor
jhernandez@guamopa.com

This facsimi ntain confidential or privileged information. If you are not t ll our office and notify us immediately. Do not distribute or

10/15/2018

Fernandez to :

Tom/Kim DO

ORIGINAL

Joyce C.H. Tang
Leslie A. Travis
CIVILLE & TANG PLLC
330 Hernan Cortez Avenue Ste. 200
Hagatna, Guam 96910
Tel: (671) 472-8868/9
Fax: (671) 477-2511

RECEIVED
OFFICE OF PUBLIC ACCOUNTABILITY
PROCUREMENT APPEALS
DATE: Oct. 12, 2018
TIME: 1:40 ☐ AM ☒ PM BY: Chris
FILE NO. OPA-PA: 17-009

PROCUREMENT APPEAL
IN THE OFFICE OF PUBLIC ACCOUNTABILITY

In the Appeal of Core Tech International Corp., Appellant. and Guam Department of Public Works, Purchasing Agency.	DOCKET NO. OPA-PA-17-009 **STIPULATION AND ORDER RE: APPEAL**

The Department of Public Works, Government of Guam ("DPW") and Core Tech International Corporation ("CTI") (collectively "the Parties"), by and through their respective undersigned counsel, hereby jointly submit this Stipulation and Order resolving CTI's appeal of DPW's decision denying CTI's protest of the July 7, 2017 Invitation for Bids for the Lease Financing for Design, Renovation, Rehabilitation, Construction and Maintenance of Simon Sanchez High School, Project No. 730-5-1057-L-YIG (the "IFB").

The Parties stipulate as follows:

1. In related appeal OPA-PA-17-010, the Parties entered into a Stipulation and Order to

Rescind Termination of Contract with Core Tech International Corp. on Route 1/Route 8 Intersection Improvements and Agana Bridges Replacement Project (GU-DAR-TI01(001)), approved by the Public Auditor on June 8, 2018 ("6/8/2018 Stipulation"). Pursuant to the 6/8/2018 Stipulation, DPW rescinded the August 23, 2017 Notice of Termination/Default of Contract ("8/23/2017 Notice of Default"), statements and documents issued to CTI concerning the Route 1/Route 8 project, and all prior notice of default, complaints, objections or concerns issued by DPW relating to the 8/23/2017 Notice of Default. In the 6/8/2018 Stipulation, DPW also accepted and approved all of CTI's work on the Route 1/Route 8 project, and except for certain warranty claims and electronic CADD files of all construction drawings and as-builts approved by DPW provided and to be provided by CTI, released and discharged CTI from any and all claims, damages or losses arising under the Route 1/Route 8 contract and project.

2. DPW agrees that because the 8/23/2018 Notice of Default, statements and documents issued to CTI concerning the Route 1/Route 8 project have been withdrawn and rescinded together with all prior notice of default, complaints, objections or concerns issued by DPW relating to the 8/23/2018 Notice of Default, the 8/23/2018 Notice of Default shall not be considered, construed or deemed a Record of Default for any Government of Guam project where DPW is the procuring agency.

3. Except for its right to enforce this Stipulation and Order and as provided in Paragraph 7 of this Stipulation, CTI releases and discharges DPW, DPW's Agents and Representatives on the Project as well as the Government of Guam, and Felix Benavente, in his personal capacity, from any and all claims, damages or losses asserted or that could have been asserted concerning this appeal – including but not limited to claims based on retaliation and violation of CTI's constitutional and civil rights, and associated Attorney's fees and

charges arising from this IFB.

4. CTI does not waive, and expressly reserves the right to protest and appeal future procurements in the event CTI is subjected to further action or failure to act by government agencies, employees, agents, or consultants that may affect consideration of CTI for future procurements. Nothing in this Stipulation shall be construed as a waiver of CTI's right to protest and appeal future procurements involving the same or similar interpretation of Record of Default or the Government rescinding of the 8/23/2017 Notice of Default as it may apply to CTI at that time.

5. DPW does not waive, and expressly reserves the right to enforce its rights under the 6/8/2018 Stipulation, which enforcement shall be brought in the OPA PA-17-10 appeal.

6. In light of the foregoing, the parties stipulate to vacate the formal hearing in this matter on October 22, 2018, and dismiss all claims in this Appeal. Each party shall bear its own costs and fees.

7. The Parties are informed of their right to appeal from a Decision by the Public Auditor to the Superior Court of Guam, in accordance with Part D of Article 9 of 5 GCA§5481(a). The Parties intend and agree for this Stipulation and Order to be a final, binding resolution of the disputes between them, and accordingly, the Parties agree that they shall not appeal, and hereby waive their right to appeal, this Stipulation and Order under Part D of Article 9 of 5 GCA §5481(a) or any other applicable statute. The Office of Public Auditor shall retain jurisdiction of this matter solely for the purpose of enforcing the terms and conditions of this Stipulation and Order. Nothing contained herein constitutes an admission of liability by either of the Parties.

//

//

SO STIPULATED on this 12th day of October, 2018.

CIVILLE & TANG, PLLC

By: _____
JOYCE C.H. TANG
Attorneys for Core Tech International Corporation

OFFICE OF THE ATTORNEY GENERAL
Elizabeth Barrett-Anderson, Attorney General

By: _____
THOMAS P. KEELER
Assistant Attorney General

ORDER

Pursuant to the foregoing Stipulation made by the Parties, it is hereby ORDERED that this matter is dismissed by mutual stipulation by the Parties, and the formal hearing in this matter, scheduled to commence on October 22, 2018, is vacated. The Public Auditor's approval of this Stipulation and Order is a Final Administrative Decision. As acknowledged in the Stipulation above, the Parties are hereby informed of their right to appeal from a Decision by the Public Auditor to the Superior Court of Guam, in accordance with Part D of Article 9 of 5 GCA §5481(a). The Parties have agreed not to appeal this order, and knowingly waive said right to appeal.

A copy of this Stipulation and Order shall be provided to the Parties and their respective attorneys in accordance with 5 GCA § 5702, and shall be made available for review on the OPA Website at www.opaguam.org.

SO ORDERED this 12th day of October, 2018.

For Anthony R. Camacho
BENJAMIN J. CRUZ
Public Auditor