

OKA POINT: DETERMINATION OF NEED FOR EXCEPTIONAL TERM CONTRACT

1.0 OVERVIEW

This Determination of Need for Exceptional Term Contract is issued pursuant to Public Law 32-40 which requires the Governor of Guam to “make a written Determination of Need justifying by a quantifiable sum an Exceptional Term Contract, and specifying the full term, inclusive of extensions, options and renewals, for such contract, and provide a copy of such Determination of Need to the Speaker of *I Liheslaturan Guahan*.”

The Chamorro Land Trust Commission (hereinafter referred to as “CLTC”), Government of Guam, via its property manager, the Guam Economic Development Authority (hereinafter referred to as “GEDA”) intends to issue Request for Proposals (“RFP”) for the lease and development of Lot Number 5173-1-R2New-R6, Tamuning, Guam consisting of approximately 153,463 square meters (approximately 38 acres) of land (The Property) commonly known as Old Hospital Point, Ypao Point or Oka Point. The Property has significant development potential as it overlooks Guam’s major resort destination of Tumon Bay, it commands scenic vistas and it is served by all utilities and transportation infrastructure. CLTC via GEDA intends to negotiate a long term lease for the Property that allows a prospective developer to implement its proposed and approved development plans. If required, the offeror will be allowed to pledge the leasehold interest in the property to secure development financing.

To allow prospective developers to make substantial investments in property development, finance such development and recover investments, CLTC proposes a lease term of up to fifty (50) years with one or more options to extend the term for an additional Forty-Nine (49) years. The actual term of the lease and options will be subject to negotiations based primarily upon the amount of investment, financing requirements and investment recoupment. The following table depicts various Lease arrangements that were approved by the Legislature:

Legislatively Approved Investments and Lease Terms

Project	Use	Investment	Lease Term	Public Law No.
JFK	School	\$ 64,729,721.05	30 yrs.	PL 29-114, 30-178
Liguan	School	\$ 11,791,127.00	20 yrs.	PL 28-47
Adacao	School	\$ 11,686,772.00	20 yrs.	PL 28-47
Astumbo	School	\$ 16,358,098.00	20 yrs.	PL 28-47
Ukudo	School	\$ 36,242,855.00	20 yrs.	PL 28-47
Okkodo Exp	School	\$ 21,818,000.00	17 yrs.	PL 30-178
Port	Cementon Guam	\$ 12,000,000.00	30 yrs.	PL 30-209
Total		\$ 174,626,573.05	157 yrs.	
Average		\$ 1,112,271.17	1 year	

Based on the above table, the Legislature has approved Extended Term Contracts (leases beyond five (5) years) on average of 1 lease year for every one million dollars (\$1M) of investment.

During the 2004 negotiations for development of Oka Point, the developer proposed a mixed use development consisting of hotel rooms and residential development with an investment of \$180 Million. It is likely that upscale hotel/resort development as contemplated by this RFP, will require an investment greater than \$180 Million and thus, a lease term greater than 5 years.

A description of the property and the potential major components of a Request for Proposals follows, to provide preliminary but more detailed information on this development opportunity.

1.1 PROPERTY USE CONSIDERATIONS

1.1.1 Property Location. The Property (see **Attachment A: Map**) is located in western Guam, overlooking Tumon Bay and at the terminus of Chalan San Antonio (Route 14) in Tamuning, Guam.

1.1.2 Previous Uses. The Property was formerly utilized by the Government of Guam for a public hospital and residential use. The hospital building and most residences were removed from the property and is thus currently vacant.

1.1.3 Current Zoning. Lot Number 5173-1-R2New-R6, Tamuning is currently designated as R2 – Multiple Dwelling Zone pursuant to Section 61306, Chapter 61, Title 21 of the Government Code of Guam. If a change to this zoning designation is needed to implement the developer's plans, an explanation of the need for change must be included in the proposal submitted in response to this RFP.

1.1.4. Proposed Future Uses. CLTC and GEDA believe that highest and best use of The Property is upscale hotel/tourist resort development and will encourage prospective developers to submit proposals advocating this land use concept in a fashion that satisfy developer and CLTC objectives. Given that the lack of hotel rooms on Guam is a significant obstacle to increasing tourist arrivals, the use of The Property for upscale hotel/tourist resort development will assist in resolving Guam's need for additional hotel rooms and CLTC's need for increased revenues as required by law.

1.1.4.1. Chamoru Cultural Center. Adjacent to the eastern end of The Property is approximately eight and a half (8.5) acres of land and eight (8) buildings (Lot No. 5173-1-R2New-4) licensed by the CLTC to Inadahen I Lina'la Kotturan Chamoru, Inc., a nonprofit corporation engaged in the preservation and promotion of the Chamorro culture, language and traditions. Incorporation of this 8 acre property and its activities into the overall development and operation of Oka Point is desirable and will be given greater weight in evaluations. Offeror proposals must demonstrate how the objectives and activities of the nonprofit corporation will be accommodated and enhanced in developing the entire property.

1.1.4.2. Meetings, Incentives, Conventions, Events (MICE). The Government of Guam has identified the need for a facility that could potentially be the venue for regional and international meetings, conventions and entertainment among other large scale events. Design and carrying capacity of existing facilities such as the University of Guam Field House

prevent Guam from hosting these events in-doors. Should offerors incorporate MICE facilities into the overall development of Oka Point, greater weight will be given in during the evaluation process.

1.2 CLTC/GEDA COMMITMENTS

- To support designation of the appropriate zone for the property to accommodate the development plan, to the extent allowable by law.
- To support the developer in satisfying all regulatory, land use, environmental, business, building and other local and federal permitting requirements, to the extent allowable by law.
- To support the developer in presenting and securing approval of the lease agreement to the extent allowable by law.
- To assist the selected developer in exploring investment incentives and financing opportunities to the extent allowable by law.

1.3 OFFEROR REQUIREMENTS

A primary consideration of the CLTC, GEDA and the Government of Guam is the benefits to be derived through the lease and development of this valuable asset. Traditional methods of generating revenue are addressed in subsections 1.3.1 and 1.3.2 below. However, CLTC, GEDA and the Government of Guam recognize that significant public benefits can also be derived through public/private partnerships and other mechanisms that, considered as a whole, exceed the benefits derived from a traditional real estate lease transaction. Should other non-traditional methods be proposed by the offeror, these methods will be given serious consideration but offerors must still identify the benefits that would have been derived from a strict real estate lease transaction for comparative purposes. Offerors are required to address the following requirements in their proposals:

1.3.1. Rent. Rent will be based upon appraised fair market value. Prospective developers are required to identify the amount of ground rent to be paid annually over the term of the lease, taking into account CLTC's objective of generating the highest amount of revenue while addresses the gap in Guam's tourism plant. Periodic escalations in ground rent will also be required over the term of the lease and therefore, developer proposals must include escalations in their proposals and provide a fair and reasonable method incorporating fair market values for establishing ground rent.

1.3.2. Participation Rent. Subject to negotiations, CLTC/GEDA may require that the offeror(s) awarded the right to lease the Property pay participation rent which is defined as a negotiated percentage of the gross income from the operations of the business or businesses located on the Property, payable monthly. In line with CLTC's objective of generating the highest amount of revenue, proposals submitted in response to this RFP should indicate whether it agrees to payment of participation rent and if so, identify the percentage of gross monthly income from the operations of the business or businesses located on the Property that will be paid as participation rent and provide a projection of monthly/annual participation rent payments. If proposals indicate agreement with payment of participation rent, proposals must also identify

the method by which gross monthly income will be accounted for and any escalations in participation rent offered over the term of the lease.

1.3.3. Alternative Payment Mechanisms. Alternatives to property rent, subtenant and other rents may be proposed by offerors in their proposals, however, any proposal suggesting such alternatives must demonstrate how CLTC's objective of generating the highest amount of revenue is achieved by comparing the suggested alternative to the property rent, subtenant and other payments described above. Alternative payment schedules including rent deferrals may also be proposed but in no event will the total amount of rent be reduced. Interest may also be charged on any deferred rents.

1.3.4. Security Deposit. The proposal shall indicate that the developer(s) agrees to pay a non-refundable security deposit upon execution of a lease and the amount of such security deposit.

1.3.5. Sublessee Use of Property. Offerors must specify in their proposals whether or not subletting (or any form of third party use) is intended for any or all portions of the property being leased. Should subletting be intended, offerors shall identify the proportion of sublessee rents paid to the lessee to be paid to CLTC, if any. In addition, participation rent as described above may be required to be paid by sublessees.

1.3.6. Other Requirements. To ensure acceptability of the intended lease agreement by the public and the government of Guam, additional requirements may be imposed and/or negotiated that are not specifically identified in this RFP, at the discretion of the Government of Guam. In addition, Public Law 32-40 requires Legislative approval of all leases whose term exceeds five (5) years. Additional requirement(s) may be imposed by the Guam Legislature. By submitting a proposal in response to this RFP, prospective offerors understand and agree that additional requirements may be negotiated by the Executive and/or Legislative Branches of the Government of Guam.

1.4 OFFEROR RESPONSIBILITIES

A lease agreement(s) will be prepared once negotiations with the successful offeror(s) have concluded. Since the lease will require offeror(s) to carry out various responsibilities, including, but not limited to those listed below, proposals must indicate concurrence with paying the costs for and carrying out the major responsibilities listed below:

1.4.1 Master Plan. Prepare a Master Plan for the proposed development, commit to a specific development schedule and secure all necessary development permits.

1.4.2. Business Plan. Create for itself and for CLTC/GEDA, a Business Plan that contains a project pro forma consistent with the Master Plan covering the period of time required by the offeror(s) for project development and operation.

1.4.3 Infrastructure. Plan, implement and fund all infrastructure improvements.

LOT 5173-1-R2NEW-R4

COURSE	BEARING	DIST (m)
1-2	S 89° 59' 27" E	21.177
2-3	N 48° 27' 43" E	76.556
3-4	N 80° 59' 20" E	6.905
4-5	S 50° 09' 30" E	12.182
5-6	S 9° 42' 50" W	14.762
	L = 8.148	
	C = 8.662	
	CHB = 8.544 59' 59" W	
6-7	S 49° 27' 42" W	66.793
7-8	S 109° 59' 30" W	13.777
	L = 33.724	
	C = 20.147	
	CHB = 8.544 21' 39" E	
8-9	S 57° 52' 30" E	8.808
9-1	S 17° 09' 20" W	110.259
	L = 30.958	
	C = 36.846	
	CHB = N 65° 31' 44" W	
AREA = 1,212 ± SQ.M		

LOT 5173-1-R2NEW-RW

COURSE	BEARING	DIST (m)
1-2	S 89° 59' 27" E	21.177
2-3	N 48° 27' 43" E	76.556
3-4	N 80° 59' 20" E	6.905
4-5	S 50° 09' 30" E	12.182
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8-9	S 57° 52' 30" E	8.808
9-1	S 17° 09' 20" W	110.259
	L = 30.958	
	C = 36.846	
	CHB = N 65° 31' 44" W	
AREA = 1,212 ± SQ.M		

LOT 5173-1-R2NEW-6

COURSE	BEARING	DIST (m)
1-2	S 89° 59' 27" E	21.177
2-3	N 48° 27' 43" E	76.556
3-4	N 80° 59' 20" E	6.905
4-5	S 50° 09' 30" E	12.182
5-6	S 9° 42' 50" W	14.762
	L = 8.148	
	C = 8.662	
	CHB = 8.544 59' 59" W	
6-7	S 49° 27' 42" W	66.793
7-8	S 109° 59' 30" W	13.777
	L = 33.724	
	C = 20.147	
	CHB = 8.544 21' 39" E	
8-9	S 57° 52' 30" E	8.808
9-1	S 17° 09' 20" W	110.259
	L = 30.958	
	C = 36.846	
	CHB = N 65° 31' 44" W	
AREA = 1,212 ± SQ.M		

SEE SHEET 1 OF 2

NOTES:
 VICINITY MAP (NOT DRAWN TO SCALE)
 1. SURVEY WAS BASED ON FOUND CORNERS AS SHOWN.
 2. ALL DISTANCES ARE IN METERS UNLESS OTHERWISE NOTED.
 3. BEARINGS AND DISTANCES WITHIN PARENTHESES ARE RECORDS. IN PARENTHESES ARE RECORDS FOR ALL OTHERS ARE THE BUILT-UP.
 4. SUBJECT LOT (S) IS/ARE ZONED "R2" MULTI-DWELLING AS PER 1987 OFFICIAL ZONING MAP. BAYVIEW.
 5. SUBJECT LOT (S) IS/ARE WITHIN THE NORTHERN ACQUIFER.
 6. AREAS BASED ON THE PROPERTIES AS OF APPROVAL OF THIS MAP.
 7. CONCRETE HOUSES AS PER AS-BUILTS ARE ONE STORY SINGLE FAMILY UNITS.

REFERENCES:
 1. RETICULATION SURVEY MAP OF LOTS 5173-1-R2NEW-R3, 5173-1-R2NEW-R4, 5173-1-R2NEW-R5, 5173-1-R2NEW-R6, 5173-1-R2NEW-R7, 5173-1-R2NEW-R8, 5173-1-R2NEW-R9, 5173-1-R2NEW-R10, 5173-1-R2NEW-R11, 5173-1-R2NEW-R12, 5173-1-R2NEW-R13, 5173-1-R2NEW-R14, 5173-1-R2NEW-R15, 5173-1-R2NEW-R16, 5173-1-R2NEW-R17, 5173-1-R2NEW-R18, 5173-1-R2NEW-R19, 5173-1-R2NEW-R20, 5173-1-R2NEW-R21, 5173-1-R2NEW-R22, 5173-1-R2NEW-R23, 5173-1-R2NEW-R24, 5173-1-R2NEW-R25, 5173-1-R2NEW-R26, 5173-1-R2NEW-R27, 5173-1-R2NEW-R28, 5173-1-R2NEW-R29, 5173-1-R2NEW-R30, 5173-1-R2NEW-R31, 5173-1-R2NEW-R32, 5173-1-R2NEW-R33, 5173-1-R2NEW-R34, 5173-1-R2NEW-R35, 5173-1-R2NEW-R36, 5173-1-R2NEW-R37, 5173-1-R2NEW-R38, 5173-1-R2NEW-R39, 5173-1-R2NEW-R40, 5173-1-R2NEW-R41, 5173-1-R2NEW-R42, 5173-1-R2NEW-R43, 5173-1-R2NEW-R44, 5173-1-R2NEW-R45, 5173-1-R2NEW-R46, 5173-1-R2NEW-R47, 5173-1-R2NEW-R48, 5173-1-R2NEW-R49, 5173-1-R2NEW-R50, 5173-1-R2NEW-R51, 5173-1-R2NEW-R52, 5173-1-R2NEW-R53, 5173-1-R2NEW-R54, 5173-1-R2NEW-R55, 5173-1-R2NEW-R56, 5173-1-R2NEW-R57, 5173-1-R2NEW-R58, 5173-1-R2NEW-R59, 5173-1-R2NEW-R60, 5173-1-R2NEW-R61, 5173-1-R2NEW-R62, 5173-1-R2NEW-R63, 5173-1-R2NEW-R64, 5173-1-R2NEW-R65, 5173-1-R2NEW-R66, 5173-1-R2NEW-R67, 5173-1-R2NEW-R68, 5173-1-R2NEW-R69, 5173-1-R2NEW-R70, 5173-1-R2NEW-R71, 5173-1-R2NEW-R72, 5173-1-R2NEW-R73, 5173-1-R2NEW-R74, 5173-1-R2NEW-R75, 5173-1-R2NEW-R76, 5173-1-R2NEW-R77, 5173-1-R2NEW-R78, 5173-1-R2NEW-R79, 5173-1-R2NEW-R80, 5173-1-R2NEW-R81, 5173-1-R2NEW-R82, 5173-1-R2NEW-R83, 5173-1-R2NEW-R84, 5173-1-R2NEW-R85, 5173-1-R2NEW-R86, 5173-1-R2NEW-R87, 5173-1-R2NEW-R88, 5173-1-R2NEW-R89, 5173-1-R2NEW-R90, 5173-1-R2NEW-R91, 5173-1-R2NEW-R92, 5173-1-R2NEW-R93, 5173-1-R2NEW-R94, 5173-1-R2NEW-R95, 5173-1-R2NEW-R96, 5173-1-R2NEW-R97, 5173-1-R2NEW-R98, 5173-1-R2NEW-R99, 5173-1-R2NEW-R100.

CERTIFICATION AND APPROVALS:

SATISFACTORY TO AND APPROVED BY:
 DATE: 5/19/13
 DARCY CAMACHO
 ACTING ADMINISTRATIVE DIRECTOR, DEPARTMENT OF LAND MANAGEMENT
 ACTING ADMINISTRATIVE DIRECTOR, CHAMORRO LAND TRUST COMMISSION

CERTIFICATION OF GUAM CHIEF PLANNER
 TITLE 21, GUAM CODE ANNOTATED, CHAPTER 11, SUBDIVISION LAW
 DATE: 5/19/13
 PAUL SANTOS
 ACTING GUAM CHIEF PLANNER

CERTIFICATION OF GUAM CHIEF SURVEYOR/CHIEF OF CADASTRE
 THIS MAP HAS BEEN EXAMINED FOR CONFORMANCE WITH TITLE 21, GUAM CODE ANNOTATED, CHAPTER 11, ARTICLES 1101 THROUGH 1105 AND REGULATIONS THEREUNDER.
 DATE: 5/19/13
 PAUL SANTOS
 GUAM CHIEF SURVEYOR / CHIEF OF CADASTRE

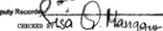
REVISIONS	DESCRIPTION	BY	APPROVED BY	DATE

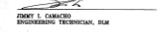
LOT PARCELING SURVEY MAP OF LOT 5173-1-R2NEW-R4 MUNICIPALITY OF TAMUNING

LAND SQUARE NO. 13		SECTION NO. 1
SURVEY DATA		
JOB NO.	14242 1/2	LOT 5173-1
COMPILED BY	FRANK P. TAZIANO	CERTIFICATE OF TITLE NO. 1987
DESIGNED BY	FRANK P. TAZIANO	REGISTERED ON: NOV. 20, 1982
FIELD BY	FRANK P. TAZIANO	IN THE NAME OF
CHECKED BY	FRANK P. TAZIANO	SCALE: 1:5000
SCALE: 1:5000 METRIC SYSTEM AS SHOWN		
SHEET 2 OF 2		
GOVERNMENT OF GUAM		
D.W.G. NO. 40-011722		
I.M. CHECK NO. 076 FY 2013		
GOVERNMENT OF GUAM DEPARTMENT OF LAND MANAGEMENT DIVISION OF LAND MANAGEMENT LAND SURVEY DIVISION DIVISION AGRAMENSIA TAYO		

CERTIFICATION OF PROFESSIONAL LAND SURVEYOR
 I, PAUL L. SANTOS, HEREBY CERTIFY THAT THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION, THAT IT IS BASED ON A FIELD SURVEY MADE ON FEBRUARY 2013 IN ACCORDANCE WITH THE PROFESSIONAL LAND SURVEYING ACT AND THAT I AM RESPONSIBLE FOR THE ACCURACY OF THE SURVEYING INFORMATION CHARACTERIZED AND SHOWN THEREON AS INDICATED ON THIS MAP.
 DATE: 5-2-13
 PAUL L. SANTOS
 PROFESSIONAL LAND SURVEYOR NO. 68



Department of Land Management
 Office of the Recorder
 File for Record No. **851244**
 On the Year: 13 Month: 05 Day: 19
 Recording Fee: _____ Receipt No. _____
 Deputy Recorder:  DATE: _____

 DATE: 5-2-2013
 FRANK P. TAZIANO, PLANNER, ILM
 DATE: _____
 DATE: 5-1-13
 FRANK P. TAZIANO, PLANNER, ILM
 DATE: _____

S-14242 1/2