

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 Board of Directors, Guam Economic Development Authority 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 Guam Economic Development Authority (hereinafter referred to as “GEDA”), Government of Guam, intends to issue a Request for Proposals (“RFP”) for the lease and development of Lot Number 7, Block 4, Tract 259 Tamuning, Guam consisting of approximately 1,041 square meters and the 4,800 square foot building situated on the lot (The Property). The Property has potential for commercial or industrial use as it is located within the E. T. Calvo Memorial Industrial Park. GEDA intends to negotiate a lease agreement for the Property that allows a prospective lessee to utilize the Property for land uses consistent with the M-1 Light Industrial Zone designation.

To allow prospective developers to invest in the Property and recover investments, GEDA proposes to allow a lessee to lease the property for a term up to April 21, 2065 including option. Such term will be subject to negotiations based primarily upon the amount of time required by the lessee to recover its investment, satisfy financing requirements and profit from investments. April 21, 2065 is the termination date of the GEDA lease of the industrial park property from the Government of Guam.

Smaller scale (in the tens to hundreds of thousands of dollars) developments, have traditionally been pursued by smaller organizations and are met with a distinctly unique set of challenges. Smaller local corporations, partnerships and sole proprietorships that are common on Guam are very much dependent on local financing institutions to engage in almost any form of commerce. A commercial loan is dependent on various terms such as, the principle loan amount, interest, and primarily, the borrower’s ability to repay. While there may be some organizations or businesses that might be able to afford a loan from hundreds of thousands to the millions of dollars, and still able to repay it back in less than five years, there are also a large number of small local businesses that are unable to do so. For example, even a \$250K business loan at only 4% interest over a mere 5 year term would require monthly payments of almost \$5K a month for the loan itself, not to mention other standard overhead, operational, or costs of goods sold. Limiting a lease term to 5 years would only add an additional hardship, or even exclusion, for most small local businesses to participate, employ local workers, or have a hope at success.

Even if a business were to be successful at negotiating a real property lease, a basic guideline for any local lending institutions, a commercial loan would generally not be granted to any organization with only a leasehold interest that would be shorter than the life of the loan itself. Thus, in order to provide a fair commercial lease opportunity to a wider range of the small

local business community and still provide a decent chance at success, it is concluded that an Exceptional Term Lease for longer than 5 years be allowed.

Fair market value of the land based upon a 2013 appraisal of nearby property indicates a land value of \$17.13 per square meter per year. Regarding the building, previous estimates indicated a cost of \$12,000 to remediate asbestos and \$45,000 to demolish the building that was heavily damaged by fire. Although located in a prime Tamuning location, the small size of the lot and the condition of the building limits prospective uses. Investments required to improve the building, remove asbestos and bring the building to current code indicates the need to provide incentives to entice use of the property.

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 central Guam, behind the ITC Building in Tamuning.

1.1.2 Previous Uses. The Property was previously used as a printing shop.

1.1.3 Current Zoning. Lot Number 7, Block 4, Tract 259 Tamuning is currently designated as “M-1 Light Industrial Zone” pursuant to Section 61309, 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 the RFP.

1.1.4. Proposed Future Uses. GEDA believe that highest and best use of the Property is commercial/industrial development and requires prospective developers to submit proposals advocating this land use concept in a fashion that satisfies developer and GEDA objectives. Revenue and job generation in addition to increased economic activity are goals GEDA seeks to achieve through the long term lease of this property.

1.2 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 development agreement to the extent allowable by law.
- To support the developer in requesting the application of available government incentives to achieve stated goals to the extent allowable by law.

1.3 OFFEROR REQUIREMENTS

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

1.3.1 Conceptual Plan. In submitting a proposal in response to this RFP, offerors are required to submit a conceptual plan for the development of the property which shall identify the type of use, the market demand for the goods and/or services to be offered, a rough order of magnitude cost for developing the site and the offeror's ability to finance development and operations including evidence of such financial ability.

1.3.2. Business Plan. In submitting a proposal in response to this RFP, offerors are required to submit a preliminary business plan containing a project pro forma covering the projected costs to prepare the site for development, projected revenues, the period of time required by the offeror to develop the property and the period of time required to recover site development and associated costs.

1.3.3 Infrastructure. In submitting proposals in response to this RFP, offerors must commit to plan, implement and fund all site preparation improvements.

1.3.4. Management. In submitting proposals in response to this RFP, offerors must accept management and maintenance responsibility for the Property over the term of the lease.

1.3.5. Environmental Remediation. In submitting proposals in response to this RFP, offerors must accept responsibility for performance and costs of any environmental remediation required to develop the Property as proposed.

1.3.6. Insurance. Offerors must commit to obtaining all required property, liability and workmen's compensation insurance, and indemnify GEDA and the Government of Guam from any liability arising from the development and use of the Property.

1.3.7 Survey. Prepare a property boundary survey or retracement of the Property and obtain all required approvals. Survey monuments must be maintained and visible at all times for inspection by GEDA.

1.3.8. Fees. Pay all fees associated with the recording the Lease at the Department of Land Management.

