

CONTRACT FOR TECHNICAL SERVICES

This CONTRACT is made and entered into on the day of August 26, 2021, by Adztech & Public Relations, Inc., hereinafter called the CONSULTANT, and the Guam Power Authority, hereinafter called GPA.

GPA engages the CONSULTANT to perform technical services for a project known and described as **Energy Sense Rebate Program Marketing Services, GPA-RFP-21-004**, hereinafter called the "Project".

RECITALS

Whereas,

SECTION I - SERVICES OF THE CONSULTANT

The CONSULTANT shall perform the following technical services in accordance with the degree of care and skill that a registered professional in Guam would exercise under similar conditions:

- A. GPA and the CONSULTANT have entered into a task-based contract wherein, GPA will call upon a task and negotiate price, scope and schedule with the CONSULTANT. The CONSULTANT shall provide services as described in the task list provided in Exhibit A. This list is not all inclusive; GPA can negotiate tasks that are similar in scope.
- B. The CONSULTANT has assigned _____ as the Project Manager for this CONTRACT. Prior written approval is required in the event the CONSULTANT needs to change the Project Manager. The CONSULTANT shall submit the qualifications of the proposed substituted personnel to GPA for approval.
- C. The CONSULTANT shall submit all final documents in both hard copy and electronic format. All documents shall be compatible with Microsoft Office. The software version used shall be compatible to current GPA standards.
- D. GPA upon mutual agreement with GWA at any time during the duration of this CONTRACT may allow GWA to use these CONTRACTUAL services through GPA.

SECTION II – CONTRACT PERIOD

GPA and the CONSULTANT have agreed that this CONTRACT will be effective August 26, 2021 for a base contract period of five years or until all of the tasks in Exhibit A are completed whichever occurs first. This contract is nominally limited to \$500,000. The base contract term is five years with two two-year extension options upon mutual agreement beyond the base contract term. GPA shall, at its sole discretion, determine task completion.

SECTION III - CONSULTANT'S COMPENSATION

- A. The method of payment for this CONTRACT shall be task-based.
- B. GPA shall pay the CONSULTANT (installments based upon monthly progress reports and detailed invoices submitted by the CONSULTANT. Such payments shall be made as specified in SECTION VI.

SECTION IV – CONSULTANT'S STATUS

The CONSULTANT agrees that there shall be no employee benefits occurring from this CONTRACT, such as:

- A. Insurance coverage provided by GPA;
- B. Participation in the Government of Guam retirement system;
- C. Accumulation of vacation or sick leave;
- D. There shall be no withholding of taxes by GPA;
- E. That it is expressly understood and agreed that, in the performance of services under this CONTRACT, the CONSULTANT and its employees shall at all times act as independent contractors with respect to GPA, and not as an employee or agent of GPA. Further, it is expressly understood and agreed by the parties that nothing contained in this CONTRACT shall be construed to create a joint venture, partnership, association, or other affiliation or like relationship and shall remain that of independent parties to a contractual relationship set forth in this CONTRACT.

SECTION V – GUAM POWER AUTHORITY'S RESPONSIBILITIES

- A. GPA shall designate a project manager during the term of this CONTRACT. The project manager has the authority to administer this CONTRACT and shall monitor compliance with all terms and conditions stated herein. All requests for information from or a decision by GPA on any aspect of the work shall be directed to the project manager.
- B. GPA shall review submittals by the CONSULTANT and provide prompt response to questions and rendering of decisions pertaining thereto, to minimize delay in the progress of the CONSULTANT'S work. GPA will keep the CONSULTANT advised concerning the progress of GPA's review of the work. The CONSULTANT agrees that GPA's inspection, review, acceptance or approval of CONSULTANT'S work shall not relieve CONSULTANT'S responsibility for errors or omissions of the CONSULTANT or its sub-consultant(s).
- C. Unless included in the CONSULTANT'S Services as identified in Section I, GPA shall furnish the CONSULTANT gratis, the following information or services for this Project:
 - 1. Available GPA data relative to policies, regulations, standards, criteria, studies, etc., relevant to the Project.

SECTION VI – INVOICING AND PAYMENT TERMS & CONDITIONS

All invoices shall include supporting documents (i.e. timesheets, shipping invoices, consumable listings). All supporting documents must be reviewed and approved by the GPA Project Manager prior to invoice submittal for charges. All invoices will be paid net 30 days from date invoice is received at the GPA Accounting Department. Payment shall be made using a method mutually agreed upon by GPA and the CONSULTANT.

SECTION VII - TERMINATION

The Procurement Officer may, when the interest of GPA or the Territory so require, terminate this contract in whole or in part, for the Convenience of the Territory. The Procurement Officer shall give written notice of the termination to the CONSULTANT specifying the part of the contract terminated and when termination becomes effective. **[GSA Procurement Regulations 6-101.10.]**

Immediately after receiving such notice, the CONSULTANT shall discontinue advancing the services under this CONTRACT and proceed to close said operations under this CONTRACT. The CONSULTANT shall appraise the services it has completed and submit an appraisal to GPA for evaluation. GPA shall have the right to inspect the CONSULTANT'S work to appraise the services completed.

CONSULTANT shall deliver to GPA all drawings, special provisions, field survey notes, reports, estimates and any and all other documents or work product generated by the CONSULTANT under the CONTRACT, entirely or partially completed, together with all unused materials supplied by GPA.

In the event of such termination or abandonment, the CONSULTANT shall be paid for services performed prior to receipt of said notice of termination including reimbursable expenses then incurred.

If the remuneration scheduled hereunder is based upon a fixed fee or definitely ascertainable sum, the portion of such sum payable shall be proportionate to the percentage of services completed by the CONSULTANT based upon the scope of work set forth in Exhibit A, and shall be agreed upon mutually by the CONSULTANT and GPA. However, in no event shall the fee exceed that set forth in Section III.

GPA shall make final payment within thirty (30) days after the CONSULTANT has delivered the last of the partially completed items and the final fee has been agreed upon.

In the event this CONTRACT is terminated, GPA shall have the option of completing the work, or entering into a contract with another party for the completion of the work according to the provisions and agreements herein.

SECTION VIII – CHANGES

GPA may at any time, by written order, make any changes or deletions in the services to be performed hereunder. If such changes or deletions cause an increase or decrease in the costs of doing work under this CONTRACT, or in the time required for this performance, an equitable adjustment shall be made as agreed to by the parties and the CONTRACT shall be modified in writing accordingly.

SECTION IX – ASSIGNMENT OF AGREEMENT

The CONSULTANT may not assign this CONTRACT, or any sum becoming due to under the provisions of this CONTRACT, without the prior written consent of GPA.

SECTION X – FORCE MAJEURE

Neither party shall be liable for any delay in meeting or failure to meet its obligations under this CONTRACT due to a force majeure.

SECTION XI - TAXES

The CONSULTANT shall be liable for Guam Gross Receipt Taxes and all other applicable taxes and duties. GPA shall have no tax liability under this order. Specific information on taxes may be obtained from the Director of Revenue and Taxation.

GPA is a government agency exempted from ALL government taxes as stipulated in the Guam Code Annotated.

SECTION XII – NOTICES

Any notice, demand or other document required or permitted to be delivered hereunder shall be in writing and may be delivered personally (not to include facsimile transmission) or shall be deemed to be delivered when received postage prepaid, registered or certified mail, return receipt requested, addressed to the parties at their respective address as specified herein:

TO: Adztech & Public Relations, Inc.
COPY:
FAX:

TO: Guam Power Authority
P.O. Box 2977
Hagatna, Guam 96932-2977
ATTN: General Manager
FAX: (671) 649-6942

SECTION XIII – GOVERNING LAW

The validity of this CONTRACT and any of its terms or provisions, as well as the rights and duties of the parties to this CONTRACT, shall be governed by the laws of Guam.

SECTION XIV - SUPPLEMENTAL CONTRACT PROVISIONS

The supplemental contract provisions to this CONTRACT are attached hereto and incorporated herein by reference as if fully set forth.

SECTION XV – INDEMNIFICATION

The CONSULTANT shall indemnify and hold GPA harmless from any claim, liability or product liability, loss, damage, demand, cause of action or suit, expense, or reasonable fee of legal counsel arising out of or in connection with the goods or services the CONSULTANT provides.

SECTION XVI – DISPUTES

All controversies between GPA and the CONSULTANT which arise under, or are by virtue of, this CONTRACT and which are not resolved by mutual agreement, shall be resolved under Guam Procurement Law and the Government Claims Act, and pursuant to the laws of Guam.

SECTION XVII – RELEASE OF INFORMATION

The CONSULTANT shall not release any information, including the contract price, concerning this project or any part thereof in any form, including advertising, news releases, or professional articles, without written permission from GPA.

SECTION XVIII – INSURANCE

The CONSULTANT shall not commence work under this CONTRACT until he has obtained reasonable insurance for Auto Liability and Worker's Compensation and Employer's Liability up to the statutory limits. The CONSULTANT shall maintain all insurance required during the course of the work.

SECTION XIX – LICENSING

CONSULTANTS are reminded that GPA will not consider for award any offer submitted by a CONSULTANT who has not complied with the Guam Licensing Law. Specific information on licenses may be obtained from the Director of Revenue and Taxation.

SECTION XX – COVENANT AGAINST CONTINGENT FEES

The CONSULTANT warrants that he has not employed any person to solicit or secure any resultant contract upon agreement for a commission, percentage, brokerage, or contingent fee. Breach of this warranty shall give the Guam Power Authority the right to terminate the CONSULTANT, or in its discretion, to deduct from the Contract price or consideration the amount of such commission, percentage, brokerage, or contingent fees. This warranty shall not apply to commission payable by contractors upon contracts or sales secured or made through, bona fide established commercial or selling agencies maintained by the CONSULTANT for the purpose of securing business.

SECTION XXI – EQUAL EMPLOYMENT OPPORTUNITY

Section 3.01 of the Executive Order 10935 dated March 07, 1965 requires the CONSULTANT not to discriminate against an employee or applicant for employment because of race, creed, color or national origin. The CONSULTANT will take affirmative action to ensure that applicants are employed and that employees are treated equally during employment without regard to race, creed, color or national origin.

SECTION XXII – AMERICAN DISABILITIES ACT

If requested, the CONSULTANT must meet all ADA regulations and requirements.

SECTION XXIII – PROHIBITION AGAINST GRATUITIES, KICKBACKS, AND FAVORS TO THE TERRITORY

GCA 5 §5630(c) prohibits the CONSULTANT against gratuities, kickbacks, and favors to the Territory.

SECTION XXIV – RESTRICTION AGAINST CONTRACTORS EMPLOYING CONVICTED SEX OFFENDERS FROM WORKING AT GOVERNMENT OF GUAM VENUES

GCA 5 §5253(b) restricts the CONSULTANT against employing convicted sex offenders from working at Government of Guam venues. It states:


(b) All contracts for services to agencies listed herein shall include the following provisions: (1) warranties that no person providing services on behalf of the contractor has been convicted of a sex offense under the provisions of Chapter 25 of Title 9 GCA or an offense as defined in Article 2 of Chapter 28, Title 9 GCA, or an offense in another jurisdiction with, at a minimum, the same elements as such offenses, or who is listed on the Sex Offender Registry; and (2) that if any person providing services on behalf of the contractor is convicted of a sex offense under the provisions of Chapter 25 of Title 9 GCA or an offense as defined in Article 2 of Chapter 28, Title 9 GCA or an offense in another jurisdiction with, at a minimum, the same elements as such offenses, or who is listed on the Sex Offender Registry, that such person will be immediately removed from working at said agency and that the administrator of said agency be informed of such within twenty-four (24) hours of such conviction.

IN WITNESS WHEREOF, the parties hereto have executed this CONTRACT this day August 26, 2021. The CONSULTANT warrants that the person who is signing this CONTRACT on behalf of the CONSULTANT is authorized to do so and to execute all other documents necessary to carry out the terms of this CONTRACT.



ADZTECH & PUBLIC RELATIONS, INC.

8/18/21
DATE



JOHN M. BENAVENTE, P.E.
GENERAL MANAGER
GUAM POWER AUTHORITY

8/26/2021
DATE

APPROVED AS TO FORM:

D Graham Botha

D.GRAHAM BOTHA, ESQ.
STAFF ATTORNEY
GUAM POWER AUTHORITY

DATE

Exhibit A

ENERGY SENSE REBATE PROGRAM MARKETING SERVICES SCOPE

1.1 Scope of Work

Proponents must provide the following scope of work:

- Design and execute marketing programs for Energy Sense Rebate Programs;
- Design and provide point-of-sales advertising banners, posters, and other materials for each specific rebate technology class such as residential and commercial air conditioning, commercial lighting, etc. for use by trade allies;
- Design and provide print, television, radio, social media, and other media advertising;
- Design and provide a K-12 curriculum for energy efficiency and island sustainability for use by public and private schools as part of their STEM programs;
- Create videos and other marketing materials for GPA to use at its facilities to inform customers about the program;
- Design and provide a traveling marketing kit for GPA to use at trade shows, village meetings, and other public events to educate customers about GPA's Energy Sense Green Island activities;
- Perform statistically valid surveys and conduct focus groups to provide meaningful and actionable information for strategic and operational decisions;
- Develop and provide a marketing program for Electrification of Guam transportation;
- Create videos for YouTube educating customers about energy efficiency, the GPA Energy Sense Program, DIY energy audits, energy saving tips;
- Marketing consultations or educational tutorials as required;
- Any other marketing or advertising services for the GPA Energy Sense Rebate Program and other DSM pilots and programs approved or ordered by the Guam Public Utilities Commission.