



ECONOMIC DEVELOPMENT AUTHORITY OF
KING GEORGE COUNTY, VIRGINIA
REQUEST FOR PROPOSAL

ISSUE DATE: 12/23/2008

RFP # 01202009-1400

TITLE: MARKETING AND SALES SERVICES FOR THE KING GEORGE COUNTY ECONOMIC DEVELOPMENT AUTHORITY

Sealed Proposals will be received until **January 20, 2009 at 2:00 PM (EST)** for furnishing the services described herein. Late, facsimile and/or electronic proposals will **not** be accepted. All inquiries must be directed to:

Kelly S. Dixon, CPPB – Procurement Manager

Phone: (540) 775-8575

Fax: (540) 775-7692

E-Mail: kdixon@co.kinggeorge.state.va.us

PROPOSALS SHALL BE DELIVERED TO:

**King George County Procurement Manager
10459 Courthouse Drive, Suite 201
King George, VA 22485
RFP # 01202008-1400**

King George County Economic Development Authority does not discriminate against faith-based organizations in accordance with the Code of Virginia, § 2.2-4343.1 or against any Offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by law relating to discrimination in employment.

Name and Address of Firm/Individual Submitting Proposal:

| | | |
|-------------------|--------------|------------------|
| _____ | Date: | _____ |
| _____ | By: | _____ |
| _____ | | Signature In Ink |
| | | _____ |
| | | Print/Type |
| Telephone: | Fax: | _____ |
| _____ | | _____ |

E-mail Address _____

Questions: All questions must be submitted in writing directly to the King George County Procurement Manager at the address referenced above no later than 1:00 PM, January 7, 2009. Questions may be sent by fax or email.



**ECONOMIC DEVELOPMENT AUTHORITY OF
KING GEORGE COUNTY, VIRGINIA
REQUEST FOR PROPOSALS 01202009-1400**

SECTION 1

King George County Economic Development Authority, a political subdivision of the Commonwealth of Virginia and a body politic of the Commonwealth of Virginia, (“ KGCEDA”), desires to obtain proposals from qualified individuals or firms in accordance with terms and conditions contained herein.

This Request for Proposals (RFP) is consistent with and governed by the King George County (“KGC”) Purchasing Ordinance and has been prepared in accordance with the Virginia Public Procurement Act.

This section of the RFP sets forth general information to all potential Offerors to assist in the preparation of proposals for the services identified herein. The proposal submission requirements are addressed in Section 2 of this RFP. KGCEDA’s process for selecting the proposal most advantageous to KGCEDA, and developing a contract, are summarized in Section 3. The requirements and processes set forth therein shall be binding on all Offerors.

1.1 PURPOSE:

KGCEDA desires to engage the services of a qualified nationally and internationally recognized real estate individual or firm with a proven track record of marketing and selling industrial property.

The required services are intended to complement (not replace) the marketing and sales support received by King George County’s Office of Economic Development, comprised of one staff person, along with the Virginia Economic Development Partnership and the Fredericksburg Regional Alliance. These entities work collaboratively with KGC and the KGCEDA to attract new business and industry to the County.

The KGCEDA seeks assistance in maintaining the momentum for positive economic diversity within the County and, seeks representatives with the drive to contribute to the creation of a vital rural environment of quality, beauty and diversity.

1.2 BACKGROUND:

King George County, “Gateway to the Historic Northern Neck,” with its 131 miles of shoreline on the Potomac and Rappahannock Rivers, acres of unspoiled natural beauty, cultural diversities and historic wealth, is home to approximately 22,630 citizens who are proud of their past and excited about the community’s future.

Recent U. S. Census estimates place King George County as the ninth fastest growing county in the United States. The County covers approximately 113,920 acres (183 square miles), of which 72,718 acres are forested, and 38,105 acres are agricultural. King George County is a transitioning rural County steeped in history that places a high priority on quality of life through the protection of natural, cultural and historical resources as well as by being a regional leader in pro-active and progressive planning, development and governmental services. The County’s location as part of the Fredericksburg region and between the Washington/Richmond metropolitan area and the serenity of Virginia’s scenic Northern Neck offers a unique perspective of a changing

Virginia. The County is also traversed by two major thoroughfares (US Routes 3 and 301), includes a growing state of the art fiber optics and telecommunications network and the home of a Wireless Authority which will be deploying wireless broadband to enhance citizens' and businesses ability to enjoy high speed internet

access and reasonably low tax rates while experiencing a high median family income (\$70,400) for the region. The County was ranked as one of the top 25 military communities with military populations under 10,000 in the United States in 2006 by Expansion Management magazine and was ranked first in public educational systems, third in spouse employment opportunities, eleventh in crime and safety and thirteenth in community standard of living.

1.3 QUALIFICATIONS:

Individuals or firms submitting proposals must demonstrate a minimum of 10 years of successful, proven experience in the field of national and international real estate marketing and sales of industrial property to include significant property planning, market analysis and feasibility, site assessment, land assemblage, deal forming, and deal structuring abilities. Individuals or firms with marketing and sales experience with publicly held property and in a rural setting highly preferred.

Individuals or firms submitting proposals shall have expertise and experience in representing public entities in the development of public property while bringing substantial increased revenue to the jurisdictions' tax base.

1.4 SCOPE OF SERVICES:

The KGCEDA plans to sell or joint venture on any or all available land owned and for sale by the KGCEDA located within the King George Industrial Park (see attached map). The locations of the properties being discussed in this RFP, if marketed successfully, have the ability to provide an extraordinary benefit to the purchasers as well as the King George County Community, Fredericksburg Region and the entire Commonwealth of Virginia.

The KGCEDA reserves the right to audit the records of the successful Offeror (Contractor) regarding the performance of the agreement and any payments related to the performance of the agreement.

A. The Contractor shall perform services including, but not limited to, the following:

1. Develop an understanding and articulate the County of King George's infrastructure efficiencies, local and area demographics, market conditions and trends, economic prosperity and broad vision of continued, diversified growth.
2. Develop, along with the KGCEDA, a hypothetical business plan based on the parcels available for sale taking into consideration the likely highest and best use for each parcel from the perspective of a qualified third party purchaser.
3. Develop an estimated fair market value for each respective parcel if marketed and developed consistent with the hypothetical site plan recognizing that this will not be a formal appraisal, but rather a potential indication of value.
4. Develop a financial analysis for each parcel outlining the potential economic impact to the County if such parcel were to be successfully developed by a third party.

5. Develop a detailed list of prospective developers/investors for each respective parcel that are likely to have an interest in developing such parcel.
6. Develop and provide for review a mutually-agreeable, greater than industry-standard, marketing plan to sell the identified land holdings.
7. The plan shall include a timeline that exhibits specific events to include:
 - a. Website with pertinent county-related hyperlinks;
 - b. A professional marketing brochure that shall be updated periodically to reflect ongoing, applicable land transactions or changes and/or related county facts when notified by the KGCEDA staff;
 - c. A number of ads to be run in applicable industry literature.
8. Professionally characterize and strategically market the land holdings potential in both public and private settings in a unique manner to interested developers when needed, and as directed by the Economic Development Director.
9. Maintain and update website and marketing campaign information during the contract period.
10. Assist in deal structure and finance objectives.
11. Monitor development progress to ensure compliance.

A competitive fee structure shall be included in the proposal. It may or may not include a fixed fee for the initial deliverables and a success fee based upon the successful marketing of any given parcel to a third party.

1.5 COMPETITION INTENDED:

It is KGCEDA's intent that this RFP permit competition. It shall be the Offeror's responsibility to advise the KGC Procurement Manager in writing if any language, requirement, specification, etc., or any combination thereof, inadvertently restricts or limits the requirements stated in this RFP to a single source. Such notification must be received by the KGC Procurement Manager not later than ten (10) days prior to the date set for acceptance of proposals.

1.6 IMPLIED REQUIREMENTS:

Products and services that are not specifically addressed in this RFP, but which are necessary to provide functional capabilities proposed by the Offeror, must be included in the proposal response.

1.7 QUESTIONS:

Questions concerning general and/or technical details of the project, or this RFP, shall be submitted in writing (email, fax, USPS, or mail delivery service) to:

Kelly S. Dixon, CPPB - Procurement Manager
 King George County, 10459 Courthouse Dr., Suite 201, King George, VA 22485
 (540) 775-1657
 (540) 775-7692 (fax)
 Email: kdixon@co.kinggeorge.state.va.us

If an Offeror discovers any significant ambiguity, error, conflict, discrepancy, omission, or other deficiency exists in the RFP, the Offeror should immediately notify the above of such error and request modification or clarification.

Potential Offerors are required to submit any and all questions in writing. Written responses, including the questions, will be provided to all Offerors via an official Addendum which will be posted on the KGC Purchasing website (<http://www.king-george.va.us>). Verbal communications will not be recognized or considered binding.

1.8 DECISION NOT TO RESPOND:

Some recipients of this RFP may elect not to respond with a proposal for a variety of reasons. KGCEDA is very interested in learning whether issues with the solicitation process have discouraged responses, or whether there are other reasons.

Accordingly, if your firm elects not to submit a proposal, we ask that you return Page 1 of the RFP package with a statement as to why you are unable or unwilling to respond.

1.9 AWARD OF CONTRACT:

The KGCEDA intends to enter into a contract with the selected Offeror using its standard Services Agreement. A sample Services Agreement is attached to this RFP as EXHIBIT A.

KGCEDA, in its sole opinion, reserves the right to reject any and/or all proposals, to waive informalities and to negotiate a Contract with the selected Offeror(s). KGCEDA reserves the right, in its sole opinion, to reject any proposal it believes would not be in KGCEDA's best interest.

1.10 CONTRACT TERM AND FUNDING:

The contract shall be effective the day of contract execution (signature by both parties). It is specifically understood that any contract is subject to available funding. The initial term of contract shall be for 12 months from date of final contract execution (signature).

KGCEDA may, at any time during the contract period, make changes within the general scope of the contract and its technical provisions. If such change causes any increase or decrease in the firm's cost of performance, an adjustment request must be made in writing, and approved by the KGCEDA, prior to proceeding with the service for which an adjustment is requested. Nothing in this clause shall excuse the firm from proceeding with performance of this contract within its original terms and conditions and any approved changes.

KGCEDA reserves the option to renew the contract for up to three (3) additional 12-month periods.

Notice of intent to renew will be given to the Contractor in writing, normally ninety (90) days before the expiration date of the current term.

1.11 TERMINATION:

Subject to the provisions below, the Contract may be terminated by the KGCEDA upon thirty (30) days advance written notice to the Contractor; but if any work or service hereunder is in progress, but not completed as of the date of termination, then the Contract may be extended upon written approval of the KGCEDA until said work or services are completed and accepted.

A. Termination for Convenience

KGCEDA may terminate this Contract for convenience at any time in which the case the parties shall negotiate reasonable termination costs.

B. Termination for Cause

In the event of Termination for Cause, the thirty (30) days advance notice is waived and the Contractor shall not be entitled to termination costs.

C. Termination Due to Unavailability of Funds in Succeeding Fiscal Years

If funds are not appropriated or otherwise made available to support continuation of the performance of this Contract in a subsequent fiscal year, then the Contract shall be canceled and, to the extent permitted by law, the Contractor shall be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the price of the supplies or services delivered under the Contract.

1.12 CONTRACTUAL DISPUTES:

The Contractor shall give written notice to the Purchasing Agent of intent to file a claim for money or other relief within ten (10) calendar days of the occurrence giving rise to the claim or at the beginning of the work upon which the claim is to be based, whichever is earlier.

The claim, with supporting documentation, shall be submitted to the Purchasing Agent by US Mail, courier, or overnight delivery service, no later than sixty (60) days after final payment. The Contractor shall submit its invoice for final payment within thirty (30) days after completion or delivery of the services. If the claim is not disposed of by agreement, the Purchasing Agent shall reduce his/her decision to writing and mail or otherwise forward a copy thereof to the Contractor within thirty (30) days of the County's receipt of the claim.

The Purchasing Agent's decision shall be final unless the Contractor appeals within thirty (30) days by submitting a written letter of appeal to the County Administrator, or his designee. The County Administrator shall render a decision within sixty (60) days of receipt of the appeal.

1.13 SEVERABILITY:

In the event that any provision shall be adjudged or decreed to be invalid, such ruling shall not invalidate the entire Agreement but shall pertain only to the provision in question and the remaining provisions shall continue to be valid, binding and in full force and effect.

1.14 AUDIT:

KGCEDA reserves the right to audit the records of the successful Offeror (Contractor) regarding the performance of the agreement and any payments related to the performance of the agreement.



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SECTION 2

All information requested, and the requirements of this RFP, must be supplied in writing in order for KGCEDA to consider the Proposal complete.

2.1 EFFECT OF PROPOSAL SUBMISSION:

Submission of a proposal shall constitute a contract to include the provisions contained in this RFP, the Offeror's proposal, and in any contract negotiated between the parties unless an exception or clarification to any such provision is clearly indicated in the proposal and labeled "Clarifications and Exceptions".

By submitting a proposal, the Offeror agrees that it is satisfied from its own investigation of the conditions and requirements to be met, that it fully understands its obligation, and that it will not make any claim for, or have to right to, cancellation of or relief from the contract because of any misunderstanding or lack of information.

KGCEDA shall not be responsible for any expense incurred by the firm in preparing and submitting a proposal or expenses incurred related to subsequent inquiries or interviews for evaluation or contract negotiations. All proposals/materials submitted shall become the property of KGCEDA.

2.2 DUE DATE:

Responses are due no later than, January 20, 2009 at 2:00 P.M. (EST). Sealed proposals must be received by the Purchasing Office prior to, or by, the date/time noted above. **KGCEDA/KGC will not accept proposals after that date and time.** Proposals received in the Purchasing Office after the date and time prescribed will not be considered for evaluation and will be returned, unopened, to the Offeror.

It shall be the Offeror's responsibility to ensure his/her proposal has been received by the Purchasing Office on or before the deadline published above. KGCEDA and KGC are not responsible for delays in the Postal service or other methods of delivery.

Offerors shall deliver sealed proposals to:

King George County
Attn: Procurement Manager
10459 Courthouse Dr, Suite 201
King George, VA 22485

No other proposal distributions by the Offeror shall be permitted.

2.3 CONFLICTS OF INTEREST:

This solicitation is subject to the provisions of Section 2.2-3100 et seq., Virginia Code, “the Virginia Conflicts of Interest Act”. No member of the Economic Development Authority Board, Board of Supervisors, School Board, or any employee of KGC, or the spouse or any other relative who resides in the same household as any of the foregoing, may be a contractor or sub-contractor in connection with any bid or proposal, or have a personal interest therein as defined by 2.2-31-1, Virginia Code.

2.4 COLLUSION:

By submitting a proposal, the Offeror certifies that their submitted proposal is made without collusion or fraud. This includes a prior understanding, contract, or connection with any corporation, partnership, firm, or person submitting a proposal for the same requirements. Collusive bidding is a violation of Federal Law and can result in fines, prison sentences, and civil damages.

2.5 OWNERSHIP:

KGCEDA requires all Offerors submitting proposals to indicate their form of organization and current principal place of business.

2.6 CONFIDENTIALITY:

Proprietary information that is submitted must be clearly identified as such at the time of submission (The Virginia Freedom of Information Act –FOIA- § 2.2-3700 et. seq. of the Code of Virginia.) Offerors must invoke this protection by written request, and identify the specific area or scope of data or other materials to be protected and state the reasons why protection is needed. Proprietary information, if any, shall be clearly identified as such within the submittal and should be easily segregated from other portions of the proposal; pricing and other material portions of the proposal will not be considered proprietary.

2.7 PROPOSAL FORMAT/SUBMITTAL INSTRUCTIONS:

Interested Offerors shall submit four (4) bound copies of their Technical Proposal with one marked “Original”. Proposals should address all the points outlined in the RFP. The Proposal should be as thorough and detailed as possible, and provide an explanation in layman’s language of technical terms used, so that KGCEDA may properly evaluate the Offeror’s capabilities to provide the required services. Proposals shall be submitted on 8-1/2” x 11” paper, bound, and prepared simply and concisely. Elaborate brochures, artwork, expensive paper, bindings, visual, and other presentation aids beyond that sufficient to present a complete and effective proposal are not required.

KGCEDA will follow the evaluation process and selection criteria described in Section 3 of this RFP. In order to enhance this process and provide each firm an equal opportunity for consideration, adherence to a standardized proposal format is required. The format of each proposal must contain the following elements organized into separate chapters and sections, as the Offeror may deem appropriate:

- Cover Letter
- Page 1 of this RFP (Completed)
- Qualifications and Experience
- Organizational Chart
- Description of Individual’s or Firm’s Capabilities
- Representative Projects

- Proposed Project Philosophy
- Fee Schedule
- References
- W-9

A. **Cover Letter:**

The cover letter should confirm the Offeror's understanding of this RFP and general scope of services.

B. Page 1 of this RFP - completed

C. **Project Team Qualifications and Experience:**

This section must include the qualifications of the staff the Offeror will assign to this project once selected. At a minimum, the proposal should:

- Designate the direct Broker Point of Contact and indicate office location.
- Include the organization, functional discipline, and responsibilities of project team members, if any.
- Provide a complete resume or description of each team member's education, professional experience, length of time employed by the Offeror and office location.

The personnel named in the proposal shall remain assigned to the project throughout the period of the contract. No personnel substitution, diversion, or replacement may be made without written approval from KGCEDA. Contractor shall submit a resume of the proposed replacement with the request and justification of personnel replacement/substitution.

By submission of a proposal, Offeror certifies that none of the work herein shall be subcontracted.

D. **Firm Experience and Capabilities:**

The purpose of this section is to provide KGCEDA with an overview description of the Offeror's company, plus the Offeror's commitment to the services set forth in this RFP and/or government clients in general. The Offeror should:

- Summarize the organization structure and size of the company plus its date of organization and current principal place of business.
- Outline and briefly discuss the Scope of Services provided and the approximate percentage of the total business devoted to the type of services requested in this RFP.
- Indicate whether or not the company has an organized practice addressing the requested Scope of Services, who formally heads that practice, and where that person is located. Provide a list of projects that comprise the type of projects anticipated by the Scope of Services.
- Describe any local office(s) that will service KGCEDA including size, area covered, and principal contact person.

- Describe the Offeror's local office experience with similar projects, list sample projects and supply information that supports the scope of services requested in this RFP.

KGCEDA reserves the right to make such additional investigations as it may deem necessary to establish competency and financial stability of any Offeror. If, after the investigation, the evidence of competency and financial stability is not satisfactory, in its sole opinion, KGCEDA reserves the right to reject the proposal.

E. **Representative Projects:**

This section of the Offeror's Proposal should list or describe representative clients currently served focusing on a project similar in size, scope and complexity compared to that expressed herein by the KGCEDA.

1. Demonstrated capacity to effectively accomplish work in a timely manner. Describe the organizational structure and project approach that will be used to complete the work.

2. **Schedule:**

Provide a proposed schedule for keeping the KGCEDA informed of progress made in marketing and sales.

The Offeror shall provide a timeline for the submittal of deliverables and the performance of other services.

F. **References:**

Provide the current name, address, and telephone number of at least five (5) specific references (preferably with a minimum of 1 local government reference) the individual or company has served either currently or in the past five (5) years; preferably those where one or more of the project team members provided the same or similar services as requested herein.

Each reference should indicate the Scope of Services provided to each referenced client.

2.8 SUBMISSION OF PROPOSALS:

Before submitting a proposal, read the ENTIRE solicitation including the Contract Terms and Conditions. Failure to read any part shall not relieve the Contractor of its contractual obligations. Proposals must be received by the Purchasing Department prior to, or by, the hour specified on the acceptance date. Proposals may either be mailed or hand delivered to King George County Procurement Manager, 10459 Courthouse Dr. Suite 201, King George, VA, 22485. Faxed and e-mailed proposals will NOT be accepted.

While additional data may be presented, each Offeror's proposal shall be organized, and bound, in the sequence outlined in this section.

- A. All proposals shall be signed by an officer or employee authorized to bind the firm contractually.
- B. Page 1 of this RFP must be completed and submitted with your proposal.

C. KGCEDA will utilize the evaluation process and selection criteria described in Section 3 of this RFP. In order to provide each Offeror an equal opportunity for consideration, adherence to a standardized proposal format is required. The format of each proposal must contain the following elements organized into separate chapters and sections:

- **Page 1 of this RFP:**

Page 1 of this RFP must be completed and included with the proposal.

By executing the Cover Sheet, Offeror acknowledges that they have read this Request for Proposal, understand it, and agree to be bound by its terms and conditions. Any exceptions to the terms and conditions of this solicitation must be clearly identified in the proposal submission.

- **Cover Letter:**

A cover letter, not to exceed three pages in length, should summarize key elements of the proposal. An individual authorized to bind the firm contractually must sign the letter. The letter must stipulate that the Fee Schedule be valid for a period of at least 180 days. Indicate the address and telephone number of the firm's office located closest to KGC, and the office from which the project will be managed.

- **Experience:**

This section should describe the individual/firm's experience in providing the marketing and sales services described in this RFP.

- **Background and Approach:**

This section should describe your understanding of the KGCEDA Organization, the work to be done, the objectives to be accomplished and should refer to the Scope of Services of this RFP.

- **Project Organization and Staffing:**

Describe the approach and methods for managing the operation as well as the completion of this project. Provide a list of individual(s) who will be working on this project. Include a resume for each listed individual.

- **References:**

Provide the current name, address, and telephone number of at least five (5) specific references (preferably with a minimum of 1 local government reference) the individual/firm has served either currently or in the past five (5) years; preferably those where one or more of the project team members provided the same or similar services as requested herein.

Each reference should indicate the Scope of Services provided to each referenced client.

- **Statement of Qualifications:**

Describe the qualifications of the firm, and key staff, performing work that is similar in size and scope within the past five years, to demonstrate competence to perform these services.

D. **Fee Structure:** Fee Schedule shall be for the initial deliverables, success fee, and any other fees for the services associated with the marketing and sale of industrial property.

2.9 PROTEST:

Offerors may refer to Sections 2.2-4357 through 2.2-4364 of the Code of Virginia to determine their remedies concerning this competitive process.

2.10 DEBARMENT:

By submitting a proposal, the Offeror certifies that the submitting firm/individual is not currently debarred by the County, Commonwealth of Virginia, or in a procurement involving federal funds, by the Federal Government. A copy of the County's debarment procedure in accordance with Section 2.2-4321 of the Code of Virginia is available upon request.

2.11 REGISTERING OF CORPORATION:

Any corporation, LLC, or LLP transacting business in Virginia shall secure a certificate of authority, as required by Section 13.1-757 of the Code of Virginia, from the State Corporation Commission (SCC), PO Box 1197, Richmond, VA. The SCC may be reached at (804) 371-9733 or at <http://www.scc.virginia.gov/division/clk/diracc.html>. Certain isolated transactions or sales conducted through independent contractors do not require registration. Offerors should consult the Code of Virginia Section 13.1-757 for more information.

2.12 COOPERATIVE PROCUREMENT:

As authorized in Section 2.2-4304 of the Code of Virginia, this procurement is being conducted on behalf of, and may be used by, public bodies, agencies, institutions and localities of the several states, territories of the United States, and the District of Columbia with the consent of the contractor.

2.13 NON-DISCRIMINATION:

KGCEDA and KGC do not discriminate against faith-based organizations or any Offeror because of race, religion, color, sex, national origin, age, or disability in the procurement of services, or supplies.



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SECTION 3

This section of the RFP outlines KGCEDA's process for selecting the proposal most advantageous to KGCEDA, plus the major elements of the subsequent contract resulting from this selection.

Procurement records will be open to public inspection after the award of the contract. Trade secrets or proprietary information submitted by an Offeror in connection with any procurement shall not be subject to public disclosure under the Virginia Freedom of Information Act; however, the Offeror must invoke this protection and identify the specific area or scope of data or other materials to be protected and state the reasons why protection is needed. Proprietary information, if any, shall be clearly identified as such within the submittal and should be easily segregated from other portions of the proposal; pricing and other material portions of the proposal will not be considered proprietary.

Firms who submit a response to this RFP may be required to make an oral presentation of their proposal with participation by the designated key personnel. If requested by KGCEDA, failure to provide an oral presentation or provide additional information, within a reasonable period of time, shall be reason for KGCEDA to consider the firm's offer non-responsive. KGCEDA reserves the right to request clarification of information submitted and to request additional information of any or all Offerors.

3.1 APPROVING AUTHORITY:

The approving authority for this RFP is King George County Economic Development Authority.

3.2 SELECTION COMMITTEE:

KGCEDA will appoint a Selection Committee to review and evaluate all proposals received. In turn, the Selection Committee will make its recommendation for selection of an Offeror to the KGCEDA Board.

3.3 INTERVIEW:

Based on the results of proposal evaluation by the Selection Committee, the highest rated Offerors may be invited by the KGC Procurement Manager to make oral presentations to the Selection Committee. Such presentations may include, but are not necessarily limited to, explanations of the proposed approach, work plan, and qualifications of the Offeror. There is no specified number of Offerors that may be selected for interview.

Interviews will be conducted in a location selected by KGCEDA.

Presentations by the selected Offerors during the interviews shall not exceed thirty (30) minutes in length, followed by a question/answer period not to exceed thirty (30) minutes in length. The selected Offerors may use any presentation method deemed by the Offeror to be most effective.

3.4 BASIS FOR AWARD:

The Selection Committee will base its award recommendation on the “Evaluation Criteria” set forth in this RFP.

The Award will be made to the responsible Offeror whose proposal, interview and resulting contract conforms to this solicitation and is most advantageous to KGCEDA.

Should KGCEDA determine in writing, and in its sole opinion, that only one Offeror is fully qualified, or that one Offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that Offeror.

3.5 EVALUATION CRITERIA:

Proposals will be evaluated on the basis of their responses to all provisions of this RFP. KGCEDA may use some or all of the following criteria in its evaluation and comparison of proposals submitted. The criteria listed are not necessarily an all-inclusive list. The order in which they appear is not intended to indicate their relative importance:

- Compliance with RFP requirements
- Understanding of the project, as demonstrated by the proposal
- Recent experience in providing services similar in scope to those detailed herein
- Experience
- Fee Structure
- References

The Selection Committee shall not be obligated to accept the lowest priced proposal, but shall make a recommendation to the governing body for an award that is in the best interests of KGCEDA. After written proposals have been reviewed, discussions with prospective firms may or may not be required. If scheduled, the oral interview will be in question/answer format for the purpose of clarifying the intent of any portions of the proposal. The individual who will be directly responsible for carrying out the contract, if awarded, should be present at the oral interview. A notification of Intent to Award will be sent to the vendor selected. Award is contingent upon the successful negotiation of final contract terms. Negotiations shall be confidential and not subject to disclosure to competing vendors unless an agreement is reached, and contract executed. If contract negotiations cannot be concluded successfully, KGCEDA shall terminate negotiations with that Offeror and pursue a contract with the next highest scoring vendor.

The successful firm is responsible for acquiring the appropriate licenses and permits, including a KGC business license, to conduct work with KGCEDA.

The Selection Committee will base its initial and final evaluation on the following criteria:

| <u>Maximum Points</u> | <u>Evaluation Criteria</u> |
|-----------------------|--|
| 35 | Firm's qualifications and experience |
| 30 | Technical approach to executing the required Scope of Services and proposed schedule |
| 10 | Fee Structure |
| 10 | References |
| 5 | Compliance with Contract Terms and Conditions |
| 5 | Quality and completeness of proposal |
| <u>5</u> | Office location |
| 100 | |
| <u>10</u> | Interview (if required/conducted) |
| 110 | Total Possible Evaluation Points |

The KGC Procurement Manager may arrange for discussion with Offerors submitting proposals, if required, for the purpose of obtaining additional information or clarification.

The Selection Committee may make such reasonable investigations as it deems proper and necessary to determine the ability of the Offeror to perform the work. The Selection Committee and/or its representative(s) reserve the right to inspect the Offeror's physical premise prior to making a final selection.

3.6 OWNERSHIP OF DOCUMENTS:

The Offeror shall provide KGCEDA with documents bound and suitable for distribution.

All documents, including digital media, submitted in response to this solicitation shall become the property of KGCEDA.

3.7 PRIME CONTRACTOR:

The successful Offeror (Contractor) shall assume full responsibility for the complete effort as required by this RFP. The Contractor shall be the sole point of contact for KGCEDA with regard to all contractual responsibilities. No portion of the work shall be subcontracted.

3.8 CONTRACT DEVELOPMENT:

Once an Offeror is tentatively selected based on the "Evaluation Criteria" detailed in this solicitation, KGCEDA reserves the right to conduct further discussions/negotiations with the selected Offeror. As a result of this discussion and negotiation, KGCEDA may propose, in writing, a contract that amends the scope of the RFP or the Offeror's proposal prior to signing the contract. At the same time, this RFP and the Offeror's proposal may be incorporated by reference directly into the final contract.

The contract, this RFP, any addenda, and the Offeror's proposal submission in response thereto shall constitute the whole agreement between the parties.

If a satisfactory proposed contract cannot be negotiated with the highest ranked Offeror, negotiations will be terminated, not to be resumed. Negotiations shall then be undertaken with the Offeror rated second most qualified and so on until an agreement is reached with an Offeror.

3.9 STANDARD AGREEMENT (CONTRACT) FOR SERVICES:

Absent legal requirements, the award will be governed by the “Services Agreement” for this project. A sample “Services Agreement” (Contract) is attached to this RFP as EXHIBIT A. Specific obligations of each party will be identified in the executed, Contract.

3.10 ACCEPTANCE, INVOICING, AND PAYMENT:

Tasks and all reports shall be conducted and completed in accordance with recognized and customarily accepted industry practices, and shall be considered complete when the service is approved as acceptable by KGCEDA.

The Contractor’s invoice shall cite the appropriate KGCEDA contract numbers.

KGCEDA will make payment to the Contractor, net forty-five (45) days or in accordance with discount terms, if offered, after receipt of an acceptable invoice and satisfactory completion of the requested services as verified by KGCEDA.

3.11 INSURANCE:

The successful Offeror shall comply with the insurance requirements set forth in the following numbered paragraphs, and those required under the Commonwealth of Virginia statutory requirements. The Offeror’s proposal shall clearly describe any desired exceptions to the insurance coverage required.

- A. The Contractor shall be responsible for its work and every part thereof, and for all materials, equipment, and property of any and all description used in connection therewith. The Contractor assumes all risks of direct and indirect damage or injury to any person or property wherever located, resulting from any action, omission, commission, or operation under the contract, or in connection in any way whatsoever with contracted work.
- B. The Contractor shall provide certified copies of all insurance coverage on behalf of the Contract five (5) days prior to work beginning. These certified copies will be sent to the KGC Procurement Manager from the Contractor’s insurance agent or representative. Certificates of Insurance submitted to KGCEDA shall have the corresponding Contract/Agreement number noted on them.
- C. The Contractor shall, during the continuance of all work under the contract, provide and agree to maintain the following:
 - 1 Worker’s Compensation and Employees insurance under the Commonwealth of Virginia statutory requirements, to protect the Contractor from any liability or damages for any injuries (including death and disability) to any and all of its employees including any and all liability or damage which may arise by virtue of any statute or law in force with the Commonwealth of Virginia, or which may be hereinafter enacted.
 - a. General Liability insurance sufficient to protect the Contractor and the interest of KGCEDA, against any or all injuries to third parties, including bodily injury and personal injury, wherever located, resulting from any action or operation under the Contract or in connection with the contracted work.

2. Automobile liability insurance, including property damage, covering all owned, non-owned, borrowed, leased, or rented vehicles operated by the Contractor and/or his/her subcontractors in the performance of the work. In addition, all mobile equipment used by the Contractor in connection with the contracted work, will be insured under either a standard Automobile Liability Policy, or a Commercial General Liability policy.
 3. Liability insurance may be arranged by General Liability and Automobile Liability policies for the full limits required, or by a combination of underlying liability policies for lesser limits with the remaining limits provided by an Excess or Umbrella Liability policy.
- E. No change, cancellation, or non-renewal shall be made to any insurance coverage without a thirty (30) day written notice to KGC Procurement Manager. The Contractor shall furnish the KGC Procurement Manager a new certificate to the KGC Procurement Manager prior to any change or cancellation date. The failure of the Contractor to deliver a new and valid certificate will result in suspension of all payments until the new certificate is furnished to KGC Procurement Manager.
 - F. Insurance coverage required in these specifications shall be in force throughout the contract term. Should the Contractor fail to provide acceptable evidence of current insurance within five (5) days of written notice at any time during the contract term, KGCEDA shall have the absolute right to terminate the contract without any further obligation to the Contractor, and the Contractor shall be liable to KGCEDA for the entire additional cost of procuring the incomplete portion of the Contract at time of termination.
 - G. Compliance by the Contractor with the foregoing requirements shall not relieve the Contractor of their liabilities and obligations under this heading or under any other section or provisions of this contract.
 - H. Contractual and other Liability insurance provided under the Contract shall not contain a supervision, inspection, or services exclusion that would preclude KGCEDA from supervising and/or inspecting the project as the end result. The Contractor shall assume all on-the-job responsibilities for the control of persons directly employed by it.
 - I. Precaution shall be exercised at all times for the protection of persons (including employees) and property.
 - J. The Contractor shall comply with the Occupational Safety and Health Act of 1970, Public Law 91-956, as it may apply to the Contract.

3.12 NONDISCRIMINATION:

During the performance of this contract, the Contractor agrees as follows:

- A. The Contractor will not discriminate against any employee or applicant or employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
- B. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.

- C. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
- D. The Contractor agrees to (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each sub-contractor or vendor.
- E. For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a Contractor in accordance with this chapter, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana during the performance of the contract.
- F. The Contractor will include the provisions of the foregoing paragraphs in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each sub-contractor or vendor.

3.13 W-9 FORM:

Each Offeror shall submit a completed W-9 form with their proposal in the event of contract award. This information is required in order to issue purchase orders and payments to your firm. A copy of this form can be downloaded from <http://www.irs.gov/pub/irs-pdf/fw9.pdf>.



EXHIBIT A

SERVICES AGREEMENT NUMBER: 01202009-1400-001

This **SERVICES AGREEMENT** (“AGREEMENT”), entered into this ____ day of _____, 2008 between **KING GEORGE COUNTY ECONOMIC DEVELOPMENT AUTHORITY** (“COUNTY EDA”), a political subdivision of the Commonwealth of Virginia and a body politic, by and through its undersigned Purchasing Agent, pursuant to the authority expressly granted by the King George County Board of Supervisors and _____ (“CONTRACTOR”). COUNTY EDA and CONTRACTOR are collectively referred to as “PARTIES.”

WITNESSETH:

WHEREAS, the COUNTY EDA desires to obtain marketing and sales services to complement the Office of Economic Development and for the specific purpose of assisting with the marketing and sale of available lots in the King George Industrial Park; and

WHEREAS, CONTRACTOR has the expertise, knowledge and ability to provide the services set forth herein and in the referenced and attached documents; and

WHEREAS, the COUNTY EDA desires to hire CONTRACTOR to provide the services set forth herein and in the referenced and attached documents; and

WHEREAS CONTRACTOR was awarded this AGREEMENT after a duly performed competitive negotiation process, and AGREEMENT award by the King George Economic Development Authority on [DATE]; and

THEREFORE, in consideration of the mutual agreements contained in this AGREEMENT and the terms and conditions set forth below and by the referenced and attached documents, it is hereby AGREED between the parties as follows:

1.0 GENERAL TERMS AND CONDITIONS

This AGREEMENT shall follow the “General Terms and Conditions”, attached as Exhibit 1, and incorporated into this AGREEMENT.

2.0 SCOPE OF SERVICES

All services shall in all ways comply with the specifications set forth in the “Scope of Services”, as listed in RFP 01202009-1400, and _____’s proposal dated _____, and incorporated by reference into this AGREEMENT.

3.0 PRICING

All pricing and payment shall be as set forth in Section I.9 of this AGREEMENT

4.0 WARRANTIES AND TITLE

CONTRACTOR warrants that it has free and clear title, without encumbrance of any kind to services set forth in this AGREEMENT and all attachments, and that it has the lawful right to dispose of, provide and/or sell services in this AGREEMENT.

5.0 CONTRACT DOCUMENTS

This AGREEMENT includes the following Contract Documents:

- a. Services Agreement 01202009-1400-001
- b. General Terms and Conditions, Exhibit 1
- c. Certificate of Insurance, Exhibit 2
- d. Fee Schedule, Exhibit 3
- e. Request for Proposal Number 01202009-1400 (incorporated by reference)
- f. _____'s proposal dated _____ (incorporated by reference)

6.0 MERGER

CONTRACTOR and COUNTY EDA agree that the Contract Documents set forth in the previous paragraph contain the entire agreement between the parties and that any previous representation or agreement, in writing or otherwise, is hereby superseded and made null and void. All amendments to this AGREEMENT shall be in writing with the notice provided as set forth in the General Terms and Conditions, attached as Exhibit 1.

7.0 CHOICE OF LAWS AND VENUE

Any and all disputes of any kind related to this AGREEMENT shall be brought before the King George County Circuit Court and determined under the Laws of the Commonwealth of Virginia.

IN WITNESS WHEREOF, the parties hereby set their signature to this AGREEMENT on _____, 2009.

County of King George, Virginia:

Contractor:

By: _____

By: _____

Title: _____

King George County Economic Development
Authority
(540) 775-9181

Approved as to form:

County Attorney

CERTIFICATION: I, _____, certify by my signature above that I am the duly authorized agent of _____. and have all right and authority to represent _____ and to enter into this AGREEMENT.



EXHIBIT 1

GENERAL TERMS AND CONDITIONS

I.1 DEFINITIONS

- I.1.1 “Department Head” means the director of the using department of King George County.
- I.1.2 “Duly authorized representative” means any person authorized in writing by the department head to act for the department head in connection with this AGREEMENT
- I.1.3 “Purchasing Agent” means the Purchasing Agent of King George County whose duties and responsibilities are more particularly described in the King George County Purchasing Ordinance, or his or her designees, as duly authorized pursuant to the Purchasing Ordinance.
- I.1.4 “Services” shall be as defined in the King George County purchasing ordinance in effect at the time of the execution of this AGREEMENT.
- I.1.5 Project” means the Marketing and Sales Services of available lots as deemed for sale by the Economic Development Authority in the King George Industrial Park, King George County, Virginia.
- I.1.6 “Contractor” shall mean: _____

Phone: _____
Fax: _____

I.2 CONTRACT PERIOD

The term for the AGREEMENT shall be from date of contract execution (signature) by both parties for one (1) 12-month period beginning the date of full AGREEMENT execution.

King George County Economic Development Authority reserves the right to extend this AGREEMENT annually for up to three (3) additional 12-month terms.

I.3 COMPLIANCE WITH LAWS

The CONTRACTOR shall at all times observe and comply with all laws, ordinances and regulations of the federal, state and local government, which may in any manner affect the performance of this AGREEMENT.

This AGREEMENT is governed by the applicable provisions of the King George County Purchasing Ordinance, which is incorporated herein by reference. Procedures for contractual disputes, appeals and protests shall be governed by the Ordinance.

I.4 TAXES

King George County Economic Development Authority is exempt from excise taxation by virtue of exemption certificate No. 54-0716449. The Purchasing Agent will complete such documents as may be necessary for the CONTRACTOR to comply with applicable tax laws and regulations. The price or prices quoted here shall include all other federal and state, direct and indirect taxes which apply.

I.5 NOTICE

All communications and notices provided for herein shall be in writing, delivered personally or by certified mail, to the CONTRACTOR by name and address listed on the proposal; to the department head by name and address listed on the cover here and to the Procurement Manager, Suite 201, 10459 Courthouse Drive, King George, VA 22485.

I.6 NONDISCRIMINATION

During the performance of this contract, the CONTRACTOR agrees as follows:

- I.6.1 The CONTRACTOR will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, creed, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the CONTRACTOR. The CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause
- I.6.2 The CONTRACTOR, in all solicitations or advertisements for employees placed by or on behalf of the CONTRACTOR, will state that such CONTRACTOR is an equal opportunity employer.
- I.6.3 Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
- I.6.4 CONTRACTOR shall comply with the provisions of the Americans with Disabilities Act of 1990, which prohibits discrimination against individuals with disabilities in employment and mandates their full participation in both publicly and privately provided services and activities.
- I.6.5 The CONTRACTOR will include the provisions of the foregoing paragraphs in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.
- I.6.5 KGC and KGCEDA do not (i) discriminate against a faith-based organization on the basis of the organization's religious character or (ii) impose conditions that (a) restrict the religious character of the faith-based organization, except as provided in subsection F, or (b) impair, diminish, or discourage the exercise of religious freedom by the recipients of such goods, services, or disbursements.

All invitations to bid, requests for proposals, contracts, and purchase orders shall prominently display a nondiscrimination statement indicating that KGC and KGCEDA do not discriminate against faith-based organizations.

Any faith-based organization contracting with KGC and KGCEDA (i) shall not discriminate against any recipient of goods, services, or disbursements made pursuant to a contract authorized by this section on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and (ii) shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. Nothing in clause (ii) shall be construed to supersede or otherwise override any other applicable state law.

Consistent with the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193, funds provided for expenditure pursuant to contracts with public bodies shall not be spent for religious worship, instruction, or proselytizing; however, this prohibition shall not apply to expenditures pursuant to contracts, if any, for the services of chaplains.

Nothing in this section shall be construed as barring or prohibiting a faith-based organization from any opportunity to make a bid or proposal or contract on the grounds that the faith-based organization has exercised the right, as expressed in 42 U.S.C. (§ 2000 e-1 et seq.), to employ persons of a particular religion. Virginia Code § 2.2-4343.1.

I.7 DRUG-FREE WORKPLACE

The CONTRACTOR agrees to (i) provide a drug-free workplace for the CONTRACTOR'S employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the CONTRACTOR'S workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the CONTRACTOR that the CONTRACTOR maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a CONTRACTOR in accordance with this chapter, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana during the performance of the contract.

I.8 OTHER RESTRICTIONS

I.8.1 No firearms and/or weapons are permitted within 500 feet of King George County property and facilities except as required by private security employed by King George County or official public law enforcement. Alcohol and/or or illegal drugs are not permitted within 500 feet of King George County property and facilities.

1.9 FEE SCHEDULE

The Fee Structure for all services provided for under this AGREEMENT is detailed in Exhibit 3.

1.10 SECURITY OF DATA

The CONTRACTOR shall not use or disclose to third parties any data, designs, or other information belonging to or supplied by or on behalf of the COUNTY EDA, without first obtaining the prior written authorization of the COUNTY. Upon the COUNTY EDA'S request, such data, designs, or other information, including all copies thereof, shall be returned to the COUNTY EDA. Where the COUNTY EDA'S data, designs, or other information are furnished to the CONTRACTOR'S suppliers for procurement of supplies for use in the performance of the COUNTY EDA'S orders, the CONTRACTOR shall insert the substance of this provision in its orders.

1.11 ASSIGNMENT AND SET-OFF

This AGREEMENT shall be binding upon all successors, assigns, employees or other agents of the CONTRACTOR. The CONTRACTOR shall not delegate any duties, nor assign any rights or claims under this AGREEMENT, without prior written consent of the COUNTY EDA (but in no case shall the consent relieve the CONTRACTOR from its obligations or change the terms of the AGREEMENT). The CONTRACTOR shall not transfer or assign any contract funds or claims due or to become due without the written approval of the Purchasing Agent having first been obtained. All claims for monies due or to become due from COUNTY EDA shall be subject to deduction by the COUNTY EDA for any set-off or counterclaim arising out of this or any other of COUNTY'S purchase orders with the CONTRACTOR, or for any other liquidated debt from the CONTRACTOR to the COUNTY EDA, whether or not any such assignment is made, and whether such set-off or counterclaim arose before or after any such assignment by the CONTRACTOR.

1.12 NON-INFRINGEMENT

To the extent that the services are provided relating to detailed designs not originated and furnished by the COUNTY and/or COUNTYEDA, or by a process or method the use of which is not specifically directed by the COUNTY and/or COUNTY EDA, the CONTRACTOR guarantees that the sale or use of such services or the use of such process or method hereunder will not infringe any United States or foreign patents, trademarks, trade names, copyrights, or trade secrets, and shall indemnify and save the COUNTY EDA and its customers harmless from any expenses, loss, cost, damage, or liability which may be incurred on account of infringement or alleged infringement of patent rights, trademarks, trade names, copyrights, or trade secrets with respect to such services. The CONTRACTOR shall defend, at its own expense, any action or claim in which such infringement is alleged, provided the CONTRACTOR is notified within a reasonable time of such action or claim against the COUNTY and COUNTY EDA. Indemnification shall not apply to infringements arising from use in combination with other items where infringement would not have occurred from the normal use of which the article supplied by CONTRACTOR was designed.

I.13 BANKRUPTCY

In the event of any proceedings, voluntary or involuntary, in bankruptcy or insolvency by or against the CONTRACTOR or in the event of the appointment, with or without the CONTRACTOR'S consent, of an assignee for the benefit of creditors or of a receiver, the COUNTY EDA shall be entitled to cancel any unfilled part of this AGREEMENT without any liability whatsoever.

I.14 GOVERNING LAW AND VENUE; NO ARBITRATION

This AGREEMENT between the PARTIES evidenced hereby, shall be deemed made in the Commonwealth of Virginia, and shall be construed and interpreted solely in accordance with the laws of Virginia. Venue for any action arising hereunder shall be in the state courts for King George County, Virginia. Nothing under this AGREEMENT shall be subject to arbitration, and any references to arbitration are expressly deleted from this AGREEMENT. The CONTRACTOR and COUNTY EDA hereby waive any and all rights to arbitration under the laws of Virginia, the United States, or otherwise.

I.15 INDEMNIFICATION

The CONTRACTOR shall save, defend, hold harmless and indemnify the COUNTY and COUNTY EDA, and all of its officers, departments, agencies, agents, and employees from and against any and all claims, losses, damages, injuries, fines, penalties, costs (including court costs and attorneys' fees), charges, liability, or exposure, by reason of property damage or personal injury to any person, including the CONTRACTOR'S employees, of whatsoever nature or kind to the proportionate extent arising out of, as a result of, or in connection with such performance caused by the negligent actions or omissions of the CONTRACTOR, its employees, agents, subcontractors, or representatives. Without in any way limiting the foregoing, the CONTRACTOR and its subcontractors shall maintain public liability and property damage insurance as provided in Exhibit 3, and shall maintain Workman's Compensation insurance as required by law covering all employees performing under this AGREEMENT.

I.16 LIMITATION OF LIABILITY

The COUNTY and COUNTY EDA'S liability shall be limited to the unpaid balance of amounts due under this AGREEMENT, and in no event shall the COUNTY or COUNTY EDA be liable to CONTRACTOR for indirect, incidental, consequential or special damages.

I.17 DEFAULT

The COUNTY EDA may, subject to the provisions below, by written notice of default to the CONTRACTOR, terminate the whole or any part of this AGREEMENT in any one of the following circumstances:

I.17.1 If the CONTRACTOR fails to perform the work within the time specified here or any written extension; or

I.17.2 If the CONTRACTOR fails to perform any of the other provisions of this AGREEMENT, or so fails to make progress so as to endanger performance of this AGREEMENT in accordance with its terms, and in either of these two circumstances does not cure the failure within a period of ten (10) days (or other such period as the Purchasing Agent may authorize in writing) after receipt of notice from the Purchasing Agent specifying the failure.

In the event the COUNTY EDA terminates this AGREEMENT in whole or in part is provided herein, the COUNTY EDA may procure, upon the terms and in the manner as the Purchasing Agent may deem appropriate, supplies or services similar to those terminated, and the CONTRACTOR shall be liable to the COUNTY EDA for any excess costs for such similar supplies or service: provided, that the CONTRACTOR shall continue the performance of this AGREEMENT to the extent not terminated under the provisions of this clause.

The CONTRACTOR shall not be liable for any excess costs if acceptable evidence has been submitted to and is deemed sufficient by the Purchasing Agent to establish that failure to perform the AGREEMENT was due to causes beyond the control and without the fault or negligence of the CONTRACTOR.

I.18 TERMINATION FOR THE CONVENIENCE OF THE COUNTY

This AGREEMENT may be terminated by the Purchasing Agent in whole or in part whenever the Purchasing Agent shall determine that such termination is in the COUNTY EDA'S best interest. Any such termination shall be effected by the delivery to the CONTRACTOR of a written notice of termination at least fifteen (15) days before the date of termination, specifying the extent to which performance under the AGREEMENT is terminated and the date upon which such termination becomes effective.

After receipt of a notice of termination and except as otherwise directed the CONTRACTOR shall stop all performance, cancel orders for parts and terminate Subcontractor's as of the date specified in the notice; and accept no further orders from the COUNTY EDA. However, any authorized work not delivered as of the date of termination shall be delivered as required herein.

I.19 FORCE MAJEURE

CONTRACTOR is not responsible for damages or delay in performance caused by conditions beyond its control including, but not limited to, Acts of God, wars, and natural disasters. In any such event, CONTRACTOR'S fee and schedule shall be equitably adjusted.

I.20 OWNERSHIP & CONFIDENTIALITY OF GOODS AND SERVICES

CONTRACTOR acknowledges that COUNTY EDA will be sole and exclusive owner of all goods and services produced under this AGREEMENT, including but not limited to tangible items, writing, drawings, plans, images, intellectual property and data compilations of any form whatsoever, shall be the exclusive and sole property of COUNTY EDA and shall not be otherwise reproduced, disclosed or used by CONTRACTOR, elsewhere, for any reason.

Further, CONTRACTOR agrees that all information provided to and by COUNTY EDA pursuant to this AGREEMENT is private, confidential and proprietary and shall be the exclusive and sole property of COUNTY EDA and shall not be otherwise reproduced, disclosed or used by CONTRACTOR, elsewhere, for any reason.

I.21 EXCLUSIVITY OF SERVICES/CONFLICT OF INTEREST

During the course of this Project, CONTRACTOR agrees that it will not provide any services, goods and or any other consultation of any kind to any other entity working on this Project, at anytime, including but not limited to the Architects, Engineers, and Builders.

I.22 IMMIGRATION REFORM AND CONTROL ACT OF 1986

The CONTRACTOR does not, and shall not during the performance of the contract for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986. Virginia Code § 2.2-4311.1

I.23 OFFICIAL NOT TO BENEFIT

CONTRACTOR certifies that to the best of his knowledge no COUNTY or COUNTY EDA official or employee having official responsibility for the procurement transaction or member of his/her immediate family has received or will receive any financial benefit of more than nominal or minimal value relating to this AGREEMENT. If such a benefit has been received or will be received, this fact shall be immediately disclosed to the COUNTY Procurement Manager. Failure to disclose the information prescribed above may result in recession of this AGREEMENT, or affect payment pursuant to the terms of the AGREEMENT.

Whenever there is reason to believe that a benefit of the sort described in the paragraph above has been or will be received in connection with this AGREEMENT that the CONTRACTOR has failed to immediately disclose, or has inadequately disclosed it, COUNTY EDA as a prerequisite to payment pursuant to the CONTRACTOR, or at any time may require the CONTRACTOR to furnish, under oath, answers to any interrogatories related to such possible benefit.

In the event the CONTRACTOR has knowledge of benefits as outlined above, this information shall immediately be submitted to the COUNTY Procurement Manager.

EXHIBIT 2

INSURANCE

The CONTRACTOR will be required to provide evidence of the minimum coverage's described within RFP # 01202009-1400. No AGREEMENT shall be finalized and no work shall commence until the CONTRACTOR insurance requirements are met.