

BID No. MCEDA20160419

REQUEST FOR PROPOSALS

FOR

**COMMERCIAL REAL ESTATE BROKERAGE AND ADVISORY SERVICE**

**MORGAN COUNTY ECONOMIC DEVELOPMENT AUTHORITY (MCEDA)**

19 April 2016

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**BID No. MCEDA20160419**

**REQUEST FOR PROPOSALS**

**(RFP)**

**FOR**

**COMMERCIAL REAL ESTATE BROKERAGE AND ADVISORY SERVICE**

**MORGAN COUNTY ECONOMIC DEVELOPMENT AUTHORITY (MCEDA)**

# BACKGROUND

* 1. The MCEDA is located in West Virginia's Eastern Panhandle, less than 100 miles northwest of the Baltimore-Washington metropolitan area and 150 miles southeast of Pittsburgh, Pennsylvania. Morgan County is the westernmost of the three counties in the Panhandle, which includes Berkeley and Jefferson counties and which forms a wedge between Maryland to the north and Virginia to the south.
  2. The county has an area of 230 square miles consisting of 148,000 acres, with a population of roughly 17,000 people. There are two incorporated municipalities, the Town of Bath, which is included in the larger area of Berkeley Springs, and the Town of Paw Paw.
  3. The county is managed by a County Commission comprised of three elected commissioners
  4. The county employs an Economic Development Director to manage the economic development of the county per the West Virginia State Code
  5. The Economic Development Board of Directors, comprised of fifteen appointed county residents, oversees Economic Development Director and ultimately serves at the will and pleasure of the County Commission
  6. The Economic Development Authority has developed this RFP on behalf of the county
  7. The MCEDA currently owns or represents several properties within the county limits. These properties include undeveloped land, multi-tenant commercial buildings, and single-use buildings. Several of the buildings are currently unoccupied and all multi-tenant buildings have vacancies.
  8. The MCEDA seeks the assistance of a Commercial Real Estate Broker to assess, re-brand, and market the properties to potential buyers and tenants.
  9. The county has a diverse community of permanent and seasonal residents, and businesses ranging from manufacturing and mining to arts and retail. The MCEDA wishes the chosen broker to ensure that this diverse community of residents and business owners are properly represented. Additionally, the decision to accept any proposals received from this RFP is at the sole discretion of the MCEDA. The MCEDA reserves the right to discontinue or change this RFP at any time and will notify all confirmed bidders of such decisions in writing.

# OBJECTIVE

* 1. The purpose of this Request for Proposals (RFP) is to select the Contractor that will provide Commercial Real Estate Brokerage and Advisory Services for the sale and lease of approximately **53.71 acres** located within Morgan County.
  2. This RFP does not in any manner whatsoever constitute a commitment or obligation on the part of the MCEDA to accept any Proposal, in whole or in part, received in response to this RFP, nor does it constitute any obligation by the MCEDA to acquire any goods or services.

# TERMS OF REFERENCE

The Terms of Reference (TOR) of the Commercial Real Estate Brokerage and Advisory Services for the MCEDA are outlined in Appendix 1 of this RFP, and, therefore, become part of it.

# GOVERNING LAW

Except as provided for otherwise herein or by other written and published rules, regulations, amendments, and/or other MCEDA documents pertaining to the RFP process, the selection process of the firm to provide Commercial Real Estate Brokerage and Advisory Services are regulated by:

* 1. This RFP.
  2. The Procurement Contract Rules of the State of West Virginia and the MCEDA
  3. The Performance Contract Rules of the State of West Virginia and the MCEDA
  4. The Executive Orders, Resolutions, memoranda and other dispositions and official documents of the Morgan County Commission and Economic Development Authority are applicable to this process.

# WALK-THRU INSPECTIONS AND PRE-BID CONFERENCE

* 1. Prospective Biddersinterested in submitting a Proposal are required to attend a mandatory pre-bid conference walk-thru inspection of the properties with representatives of the MCEDA on May 2, 2016 10:00am 522 Business Park followed by 12:00 noon Paw Paw Industrial Park
  2. Scheduling of an alternate walk-thru date may be considered by the MCEDA on a case by case basis. Firms that are unable to attend the walk-thru date may request an alternate walk-thru date, which the MCEDA at its sole discretion may grant or deny. The alternate walk-thru date may be requested by telephoning EDA Director (Betsy Heath)
  3. The MCEDA will not consider Proposals from any firm which has not participated in the walk-thru and the pre-bid conference. Failure to inspect the properties prior to bidding will result in the disqualification of any subsequent Proposal.
  4. Attendance to the mandatory walk-thru and pre-bid conference is to be confirmed by telephoning EDA Director (Betsy Heath)
  5. The intent of the above-mentioned walk-thru inspection is to provide prospective Bidders with a full understanding and the nature of the services required for the MCEDA. Prospective Bidders will also have the opportunity to discuss the TORs of the service and ask questions concerning the scope of the services required.

# BIDDERS’ INQUIRIES

* 1. Bidders may submit any inquiry or request for more information and clarification regarding technical specifications in this RFP no later than May 5, 2016 5:00pm.
  2. The requests must be submitted in a written format to the attention of:  
       
     Betsy Heath  
     Executive Director  
     MCEDA  
     77 Fairfax Street (mailing)  
     83 War Memorial Drive (physical)  
     Berkeley Springs, WV 25411  
     304.258.8546/bheath@morgancountywv.gov

* 1. The responses to these requests will be submitted in written format to all Bidders no later than May 11, 2016 5:00pm by email.

# PROPOSAL SUBMISSION

* 1. **Submittal Format**
     1. Proposals shall be submitted in 3 sealed envelopes. The first envelope will contain the Technical Proposal; the second envelope will contain the Price Proposal; and the third envelope will contain the legal documentation required in Section 7.2.3.

* + 1. The Proposals shall be submitted in hard copy: one (1) original and two (2) copies. The sealed envelope containing Bidder’s Proposal shall be labeled:

MCEDA BID No. MCEDA20160419– COMMERCIAL REAL ESTATE BROKERAGE AND ADVISORY SERVICE

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (*Bidder’s Name*)

* + 1. The Proposals shall be delivered to:

MCEDA

77 Fairfax St.  
Berkeley Springs, WV 25411

* + 1. Additionally, the Proposals shall be submitted by e- mail to the attention of **Betsy Heath bheath@morgancountywv.gov**. Each document, including attachments, that conforms the Proposal must not exceed 15 MB each.
    2. The Proposals shall be signed by the Bidder’s authorized agent.
    3. The Proposals shall remain valid and open for acceptance for a period of at least ninety (90) calendar days after date specified for receipt of proposals. The term of validity of the Proposals must be expressly stated on the same Proposal.
    4. By submitting a Proposal, the Bidder gives express warranty of its knowledge and acceptance of RFP and the rules and conditions that governs the bidding process. Likewise, the Bidders shall warrant the accuracy and reliability of all information they submit in this procurement process.
    5. The Bidders shall bear any and all costs or expenses associated with or incurred in the formulation or development of a Proposal in response to this RFP.
  1. **Required Documents in the Proposals**

1. Content of the Technical Proposal:

The Technical Proposal shall include the following information/documents:

***Documents related to Contractor’s Experience***

* 1. A minimum of five (5) references from Bidder’s clients to which similar or relevant services were provided during the last three (3) years. These references should include: the name of the client, contact person, telephone and fax numbers and e-mail address, and a description of the work performed and the duration of the project. Provision of this information authorizes the MCEDA to contact for verification interviews. Bidders should assume that all references will be contacted by the MCEDA prior to award.
  2. A general description of the background of the bidding firm.

* 1. A detailed description of the Bidder’s work experience similar or relevant to this Contract. The description shall indicate what work it did, when and where it did it, for whom it did it, and any particular methods it used. If the Bidder plans to perform the service with subcontractors and/or in joint venture with other firms, the Work Plan should address the interrelationship of the firms and how potential inefficiencies such as organization, communications, and process can be avoided. If the form of a joint venture is considered to submit a Proposal, the Technical Proposal should additionally address joint and several liabilities for all partners.

***Documents related to Contractor’s Personnel***

* 1. Curriculum Vitae of the proposed licensed Real Estate Broker or Broker Team if proposed as such. The Curriculum Vitae shall describe their education, certifications, qualifications, skills and relevant experience.

***Documents related to the Service Offered***

* 1. Work Plan that describes in detail the service offered in accordance with the TORs.

***Other information***

* 1. Information of Bidder’s point(s) of contact. Provide the name, position, telephone number, email and fax of the person or persons serving as coordinator or focal point of information of the Bidders concerning this bidding process.
  2. Other documentation and/or information that supports each of the technical evaluation factors as per Section 8.4.1, a) of this RFP.

1. Content of the Price Proposal:

The Broker shall submit a Compensation Schedule, typically in the form of a commission for real estate transactions. All charges and fees must be disclosed in full detail. The compensation schedule must also list any non-commissions fees, including charges for other services outlined in the Scope of Work. For all compensation, the Compensation Schedule must identify the circumstances under which the compensation would be due.

The submitted compensation schedule shall be guaranteed by the Broker for the maximum term of the contract, and any extensions thereof. Please refer to Appendix 3 Format 3.

1. Legal Documentation:
   1. A copy of the certificate of incorporation of the Bidder.
   2. A copy of the Bidder’s license to do business in West Virginia.
   3. A copy of the W-9 Form for US Companies and the Employer Identification Number for companies outside of the US.
   4. Copies of Contractor’s Personnel licenses to perform services as Real Estate Agent in Morgan County, WV.
   5. A list of the directors, officers, and the names of any stockholder with more than 5% of the stock.
   6. A statement where Bidder acknowledges that it has read and understood the terms and conditions of the Appendix 2 of this RFP. The statement should follow Format 1 of Appendix 3. If the Bidder does not agree with any of the terms and conditions of the Contract, it should expressly indicate so in its Proposal, offer alternative language, and present the rationale of its proposal.
   7. A disclosure statement of conflict of interest. The statement should follow Format 2 of Appendix 3.
   8. A copy of the Bidder’s latest general balance sheet of 2014 or 2015; and copy of the Bidder’s latest three (3) audited financial statements, for the years 2012, 2013, 2014. These financial statements must be signed and/or appropriately certified by the Chief Financial Officer of the Bidder. In addition, the Bidder’s DUNS number, only if applicable.
   9. **Closing Date for Receipt of Proposals**
      1. Both the sealed and electronic proposals must be received by the MCEDA no later than by **3 p.m. EST, on May 20, 2016**.
      2. Proposals submitted after the deadline will not be considered.
   10. **Limited Use of Data**

The MCEDA cannot provide assurances that the proposals received will not be subject to public scrutiny however, if the Proposal includes data that the Bidder does not want to disclose to the public for any purpose or used by the MCEDA except for evaluation purposes, the Bidder shall include in its Proposal a statement signed by its legally authorized representative with the following legend:

*USE AND DISCLOSURE OF DATA*

*This Proposal includes data that shall not be disclosed outside the MCEDA and shall not be duplicated, used, or disclosed— in whole or in part—for any purpose other than to evaluate this Proposal. If, however, a contract is awarded to this Bidder as a result of—or in connection with—the submission of this data, the MCEDA shall have the right to duplicate, use, or disclose the data to the extent provided in the resulting contract. This restriction does not limit the MCEDA's right to use information contained in this data if it is obtained from another source without restriction. The data subject to this restriction are contained in sheets [insert numbers or other identification of sheets].*

# EVALUATION

* 1. **Evaluation Authority**

The Proposals will be evaluated by the MCEDA’s RFP Evaluation Committee (the “Evaluation Committee”).

* 1. **Requests for Clarifications**
     1. In order to enhance the Evaluation Committee understanding of Proposals, allow reasonable interpretation of the Proposal, or facilitate the CAC’s evaluation process, the Evaluation Committee may submit, in writing, any inquiry or request to the Bidders for explanation, substantiation or clarification of certain aspects of its Proposals.
     2. Likewise, during the evaluation process, the Evaluation Committee may offer the Bidders an opportunity to eliminate minor irregularities, informalities, or apparent clerical mistakes in its Proposals.
     3. Requests for clarifications shall not be used to cure Proposal deficiencies or material omissions that materially alter the technical or cost elements of the Proposal, and/or otherwise revise the Proposal.
     4. Inquires or requests for clarification will be addressed to the point of contact indicated by the Bidders in its Proposal.
  2. **Evaluation Process**
     1. The evaluation of the Proposals will be performed as a whole, in two (2) phases: Technical Evaluation and Price Evaluation. The purpose of the Technical Evaluation is to analyze and evaluate the Technical Proposal, and the purpose of the Price Evaluation is to analyze and evaluate the price offered.
     2. Proposals will be admitted for evaluation only if they comply with the mandatory minimums contained in the TORs. Once admitted, the Evaluation Committee shall analyze and rate those Proposals using the evaluation factors set forth in paragraph 8.4.
  3. **Award Criteria**
     1. The Evaluation Committee will review, evaluate, and compare all Proposals according to, but not necessarily limited to, the following criteria:

a) Technical Criteria:

1. **Responsiveness**. Whether the Bidder’s Technical Proposal conforms in all material respects to the RFP.
2. **Financial Capability**. Assesses the financial condition of the Bidder to perform the Contract through the review of the Bidder’s financial statements.
3. **References Check**. The MCEDA will request performanceinformation from Bidder’s previous clients.
4. **Responsibility**. Whether the Bidder’s Technical Proposal meets the RFP’s technical specifications in order to determine its capability, tenacity, and perseverance to perform the Contract.
5. **Relevant Experience / Past Performance**. Assesses Bidder’s capability, comprising of three elements: i) observation of the historical facts of Bidder’s work experience (what work it did, when and where it did it, for whom it did it , and what methods it used); ii) qualitative judgments about breadth, depth, and relevance of that experience based on those observations; and iii) qualitative judgments about how well the Bidder performed, also based on those observations.

Bidder’s relevant experience and past performance will be evaluated in respect to past or current efforts similar or relevant to this Bid.

1. **Key Personnel.** Assesses the qualifications and relevant experience of the key personnel that the Bidder intends to use to perform the Contract, and its organization. Selection by the Bidder of the best trained personnel available is crucial to the success of the Contract, and will be a key element for the evaluation of the Proposal.
2. **Work Plan.** Assesses the completeness of the Proposal in order to determine technical compliance.
3. **Innovation / Enhancements.** Favorable consideration will be given to those Bidders that offer greater performance through enhancements to the work called by the TORs, such as new technology that will enhance and improve the security work.

b) Price Criteria:

1. Price Proposal.

* 1. **Discussions and Negotiations**

Before awarding the Contract, the MCEDA may choose to negotiate the terms, conditions and deliverables of the Contract with the Bidders that, in the opinion of the MCEDA, are within the competitive range. After the negotiations, the MCEDA will issue a request for Best and Final Offer (BAFO) so those Bidders will have the opportunity to revise or modify its initial Proposal. The Evaluation Committee shall analyze and rate those BAFOs using the evaluation factors set forth in paragraph 8.4.

* 1. **Key Activities and Deadlines**

The table below shows the key activities and expected completion dates. The MCEDA reserves the right to change these dates at any time. All registered bidders shall be notified of any such changes via electronic mail.

| Number | Activity | Completion Date |
| --- | --- | --- |
| 1 | Notice of intent to bid | April 20, 2016 |
| 2 | Bidders conference – Mandatory Attendance | May 2, 201610:00AM |
| 3 | Final questions submitted by bidders | May 6, 2016 5:00PM |
| 4 | Questions answered by the County | May 11, 2016 5:00PM |
| 5 | Proposals due to County | May 20, 2016 5:00PM |
| 6 | Bidder’s presentations | As requested |
| 7 | Bid Opening (at EDA Office) | May 23, 2016 10:00AM |
| 8 | Finalists chosen | May 27, 2016 |
| 10 | Award | May 31, 2016 |

Table 1 - Key Activities and Deadlines

# AWARD

* 1. The tradeoff analysis decisional rule will be applied for the evaluation of the Proposals by the Evaluation Committee. Under this rule, the Evaluation Committee will evaluate both price and non-price factors and will make a recommendation to the MCEDA. The MCEDA will award the Contract to the Bidder proposing the combination of factors which offers best value to the MCEDA. Therefore, the MCEDA reserves the right to consider award to other than the lowest price bidder or the highest technically rated bidder.
  2. All technical evaluation factors, when combined, have the same level of importance than cost or price.
  3. The MCEDA reserves the right to award the contract to multiple contractors rather than a single contractor although the MCEDA will consider awarding one contractor with exclusivity over the properties
  4. The MCEDA reserves the right to reject any or all Proposals, and to partially award the Contract.
  5. The award will be notified to the winning Bidder. Such communication shall not be construed as a Contract with the MCEDA. The award is contingent upon the winning Bidder’s acceptance of the terms and conditions of the proposed Contract, which will be drafted by the MCEDA based on this RFP and the winning Proposal. Consequently, the Contract shall come into effect when signed by both the MCEDA and the duly authorized representative of the winning Bidder.

# CONTRACTUAL TERMS AND CONDITIONS

* 1. **Data Information Usage**
     1. Contractor shall be liable for improper or incorrect use of the data collected or information disclosed to Contractor by the MCEDA in connection with its Proposal, and/or in connection with any subsequent contract negotiations between the MCEDA and the Contractor.
     2. The data and related information are legal documents and are intended to be used as such.
     3. Contractor takes full responsibility for any errors or mistakes with respect to its bid proposal. Contractor has used its best efforts to ensure the accuracy, reliability and completeness of its proposal, and agrees that any cost of any modification of proposal or contract terms based on Contractor’s error in the information it has provided with its proposal shall be borne solely by Contractor.
  2. **Privileges and Immunities**
     1. Nothing in the Contract shall constitute an express or implied agreement or waiver by the MCEDA and Morgan County, WV, or their personnel of their Privileges and Immunities under the MCEDA, WV Charter, the laws of the United States of America, or international law.
     2. Contractor is not entitled to any of the exemptions, privileges or immunities, which the MCEDA may enjoy arising from the MCEDA status as a local government agency.
  3. **Indemnification to Third Parties for Contractor’s Negligent or Wrongful Acts**
     1. Contractor shall fully indemnify and hold harmless the State of West Virginia, Morgan County, the MCEDA, and its officials, employees, agents, affiliates, successors and assigns from and against: (i) all claims, damages, actions, liabilities, losses, fines and penalties, and expenses, including but not limited to attorneys' fees, arising out of or resulting from Contractor’s negligence or deliberate wrongful acts in relation to the Contract, and (ii) worker compensation claims and actions presented by Contractor’s employees and agents.
     2. the MCEDA shall notify Contractor as soon as reasonably practicable after any claim covered by this Section is made against it or, with respect to any such claim made against any other person or identity entitled to indemnification under the Contract, within a reasonably practicable time after having been notified of that claim.
     3. Contractor is liable to the MCEDA and shall indemnify the MCEDA for losses to the MCEDA’s and/or the MCEDA’s property sustained through any acts committed by Contractor's employees, agents, and/or subcontractors acting alone or in collusion. Such acts include, but are not limited to, actual destruction, disappearance, or wrongful abstraction of property, money, or securities.
     4. The provisions of this Section shall not be so construed as to affect any waiver of subrogation rights on the part of any insurance company, as provided in any policy of insurance covering the Morgan County Commission.
  4. **Confidentiality and Privacy**
     1. Contractor shall keep all work and services carried out hereunder and proprietary information disclosed hereunder entirely confidential, and not use, publish, sell, or make known, without the MCEDA’ written approval, any information, developed by the Contractor or provided by the MCEDA, to any persons other than personnel of the parties to this Contract. Any public representation regarding the MCEDA shall be made by the MCEDA and any requests for information made to the Contractor by the news media, or others, shall be referred to the MCEDA. Additionally, Contractor shall not reference the work performed for the MCEDA under this Contract without prior written approval of the MCEDA. For purposes of this Paragraph, proprietary information includes, but is not limited to any information that is generally understood as proprietary under common industry practices; and any matter designated as proprietary by the MCEDA.

In addition, information that a party considers as proprietary or confidential and which it has indicated/marked as proprietary or confidential will be treated by receiving party in the same manner as receiving party treats its own proprietary or confidential information.

* + 1. Period of confidentiality: The obligations under Paragraph 10.4.1, above, shall continue, notwithstanding the expiration or termination of this Contract.
  1. **Due Diligence and Information on the Contract**
     1. By submitting a Proposal, the Bidder represents and warrants that it has studied and is thoroughly familiarized with the requirements and specifications of the Contract in their entirety. This includes familiarity with the Contract Documents attached to the RFP, with all current equipment, labor, material market conditions, and with applicable laws, such that the Bidder accepts responsibility for and is prepared to execute and shall completely fulfill all obligations under the Contract.
     2. By submitting a Proposal, the Bidder also accepts that it will not make any claim for or have any right to damages because of any misinterpretation or misunderstanding of the Contract, or because of any information, which is known or should have been known to the Bidder.
  2. **Insurance**
     1. For the duration of the Contract, Contractor shall purchase and maintain in a company or companies, to which the MCEDA has no reasonable objection, such insurance as will protect the Contractor, the MCEDA, and Morgan County WV, from claims set forth below, which may arise from operations under this Contract by Contractor or by a subcontractor of Contractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable. Contractor is required to carry insurance with limits equal to or greater than those set forth in the table below:

|  |  |
| --- | --- |
| Commercial General Liability | $1,000,000 Personal/Bodily Injury. |
|  | $1,000,000 Each Occurrence. |
|  | $2,000,000 Products/Completed Operations Aggregate. |
|  | $2,000,000 General Aggregate, per premises aggregate. |
| Business Automobile | $1,000,000 Each Accident. |
| Worker's Compensation | Statutory Limits or $500,000, whichever is greater, based on the benefits levels of the deemed state of hire. |
| Employer's Liability | $1,000,000 Bodily Injury by Accident Per Employee. |
|  | $1,000,000 Bodily Injury by Disease Per Employee. |
|  | $1,000,000 Bodily Injury by Disease Policy Limit. |
| Umbrella/Excess Liability | $5,000,000 Each Occurrence. |
|  | $5,000,000 Aggregate, per Project. |

Table 2 - Insurance Requirements

* + 1. Contractor shall name the Morgan County Commission and MCEDA(the MCEDA) as an additional insured under such policies, and shall provide the MCEDA with a certificate evidencing the above insurance coverage.
    2. Should any of the above described insurance policies be cancelled before the expiration date indicated in the respective certificate provided to the MCEDA, the Contractor shall give to the MCEDA written notice and provide a new certificate of insurance that evidences the insurance policy required.
    3. Contractor shall require all subcontractors to have insurance having the same or similar coverage as that specified above in paragraph 10.6.1. Contractor is required to provide the MCEDA with proof of those insurance policies on request.
    4. Contractor’s liability insurance shall include contractual liability insurance sufficient to cover Contractor’s obligations under paragraph 10.6.1, above.
  1. **Key Personnel**
     1. The personnel listed in the Contractor’s Proposal are considered essential to the work being performed under this Contract. Before removing, replacing, or diverting any of the specified personnel, the Contractor shall (1) notify the MCEDA reasonably in advance and (2) submit justification (including proposed substitutions) in sufficient detail to permit evaluation of the impact on this Contract.
     2. The Contractor shall make no diversion without the MCEDA' written consent; provided, that the MCEDA may ratify in writing the proposed change, and that ratification shall constitute the MCEDA' consent required by this clause.
  2. **Subcontractors**
     1. The Contractor may enter into a contract or contractual action for the purpose of obtaining supplies, materials, equipment, or services under the Contract.
     2. The MCEDA’ written consent is required for the Contractor to enter into a particular subcontract.
     3. Contractor is fully responsible for Contract performance, regardless of any team arrangement between the Contractor and its Subcontractors.
  3. **Contractual Terms and Conditions**
     1. Appendix 2 of this RFP contains the Contractual Terms and Conditions of the MCEDA’ standard Performance Contract.
     2. No changes to the General Terms and Conditions shall be accepted after the contract award. Once the Contract is awarded, the Contractor shall be bound by the General Terms and Conditions either as stated herein in the RFP or as mutually modified by the Parties.

# APPENDIX 1 – SCOPE OF WORK

**TERMS OF REFERENCE**

**COMMERCIAL REAL ESTATE BROKERAGE AND ADVISORY SERVICES**

1. **PURPOSE OF THE SERVICES**

The Morgan County Economic Development Authority (“MCEDA” and “EDA”) is seeking the services of a licensed Real Estate Broker (Broker) to provide real estate brokerage and advisory services for the sale and lease of approximately **53.71 acres** in the Morgan County, WV.

1. **SCOPE OF WORK**
   1. The Scope of the Work consists of the provision of the commercial broker services to list, market/advertise, sell and lease approximately **53.71 acres** in the Morgan County, WV. The contract that originates from this agreement will be to lease or sell this property.
   2. The MCEDA reserves the right to locate tenants for the space. Broker will not receive compensation for tenants identified and signed as tenants solely by the MCEDA.
   3. Properties’ additional information and maps are included as Annexes 1 & 2.
   4. The selected broker shall provide, but not limited to, the following services:
      1. Prepare market analysis.
      2. Prepare estimates of property sale and rental value, and explain in detail the verifiable sources for such estimates. Verifiable sources should include comparable rental prices, among other indicators.
      3. Prepare a comprehensive marketing strategy plan. This includes: the development and execution of industry standard marketing and advertising plan and marketing collaterals such as exposure on the broker’s web page, open houses, signage, lock boxes, and other forms of advertising that is normally associated with successful real estate transactions.
      4. Organize, schedule and conduct site tours of the property to potential tenants with the EDA Director (Betsy Heath) or a designated MCEDA agent.
      5. Analyze the offers from potential tenants and **a**dvise the MCEDA stakeholders with respect to negotiations.
      6. Represent the MCEDA in negotiations with a prospective tenant from the time of offer until signing the lease or sale contract.
      7. Lead potential tenants through the property leasing process.
      8. Handle all customary activities and services associated with real estate transaction.
      9. Provide to the MCEDA personnel assistance regarding Commercial Real Estate Broker Services and related activities.
2. **QUALIFICATIONS**

To be considered, Bidders/Brokers must submit documentation with their proposal demonstrating the following:

* 1. The lead broker and other real estate professionals assigned to the contract must be licensed real estate brokers in the State of West Virginia.
  2. The lead broker assigned to the contract and responsible for the coordination and execution of the work should have a minimum of five (5) years of experience in working with the sale and lease of commercial properties. Broker must have a significant presence in Morgan County, WV, and must also have the ability to provide consistently professional service for properties located throughout the states included in such area.
  3. Broker must demonstrate ability to sell and lease undeveloped land in Morgan County WV. Broker shall provide details of comparable properties that are currently on the market and identify which will be direct competition.
  4. Broker must have a West Virginia Real Estate Broker’s License in good standing, and state its membership in the West Virginia Association of Realtors, the National Association of Realtors, and the Metropolitan Regional Information System (MRIS) for listing and reporting information about the property.

1. **COMPENSATION SCHEDULE**

The Broker shall submit a Compensation Schedule, typically in the form of a commission for lease transactions. All charges and fees must be disclosed in full detail. The compensation schedule must also list any non-commissions fees, including charges for other services outlined in the Scope of Work. For all compensation, the Compensation Schedule must identify the circumstances under which the compensation would be due.

The submitted compensation schedule shall be guaranteed by the Broker for the maximum term of the contract, and any extensions thereof. Please refer to Appendix 3 Format 3.

1. **CONTENT OF THE TECHNICAL PROPOSAL**

The technical proposal shall include at minimum 4 Sections:

1. Section specifically addressing the Scope of Work (as discussed above at Section 3 of Appendix 1);
2. Section detailing the bidder’s Qualifications (as discussed above at Section 4 of Appendix 1 );
3. Section detailing proposed Compensation (as discussed above at Section 5 of Appendix 1);
4. Section where bidder shall separately acknowledge acceptance of the General Terms and Conditions for dealing with the MCEDA as a local government agency. The General Terms and Conditions are attached to this Request for Proposal at Appendix 3 (Format 1, 2 and 3). In the event that bidder cannot accept the General Terms and Conditions of the MCEDA for some reason, the bidder may offer alternatives to the General Terms and Conditions, which will be duly considered with the bid offer.
5. **ANNEXES**

Annex 1: 522 Business Park

Annex 2: Robert C. Byrd Industrial Park

# APPENDIX 2 – TERMS AND CONDITIONS

## CONTRACTUAL TERMS AND CONDITIONS

* 1. Contractor is neither an employee nor a staff member of the MCEDA and is not entitled to any of the rights, benefits, and emoluments of the MCEDA staff members.
  2. Contractor undertakes to perform Contractor’s functions under this Contract and to regulate Contractor’s conduct in conformity with the nature, purposes, and interests of the MCEDA. Contractor shall complete the Work in accordance with the highest professional standards and shall conform to all governmental pertinent laws and regulations.
  3. Contractor accepts full legal responsibility for the Work, including all liability for any damages or claims arising from it, and agrees to hold the MCEDA and its staff members harmless from all such damages or claims.  Contractor shall provide certificates of insurance coverage as the MCEDA may require for proof of ability to cover such liability.
  4. Contractor does not legally represent the MCEDA, shall not hold himself out as having such powers of representation, and shall not sign commitments binding the MCEDA.

1. Contractor shall not have any title, copyright, patent, or other proprietary rights in any Work furnished under this Contract.  All such rights shall lie with the MCEDA. At the request of the MCEDA, the Contractor shall assist in securing the intellectual property rights produced under this Contract and in transferring them to the MCEDA.
2. All information (including files, documents, and electronic data, regardless of the media it is in) belonging to the MCEDA and used by Contractor in the performance of this Contract shall remain the property of the MCEDA. Unless otherwise provided in the Terms of Reference and Technical Specifications (Appendix I and II), Contractor shall not retain such information, and copies thereof beyond the termination date of this Contract, and Contractor shall not use such information for any purpose other than for completion of the Work.
3. The Gross Compensation paid Contractor constitutes full consideration for the Work.  It covers all fees, expenses, and costs incurred by Contractor in providing the Work, as well as Contractor's direct compensation for same.
4. Because Contractor is an independent contractor, the MCEDA is not responsible for withholding tax, providing social security, worker’s compensation, health, accident and life insurance, vacation leave, sick leave, or any other such emoluments for Contractor and his employees under this Contract.  Contractor is solely responsible for providing those benefits, and the Parties have agreed upon the Gross Compensation hereunder to enable Contractor to satisfy that responsibility.  At the request of the MCEDA, the Contractor will provide satisfactory evidence of workman's compensation and other insurance coverage that may be required for all its employees or such Contractors.
5. Contractor warrants that his performance of the Work will not violate applicable immigration laws, and Contractor shall not employ any person for the performance of this Contract where such employment would violate those laws.
6. Unless otherwise specified in this Contract, Contractor shall have the sole responsibility for making Contractor’s travel, visa, and/or customs arrangements related to and/or required for the performance of this Contract, and the MCEDA shall have no responsibility for making or securing such arrangements.
7. This Contract shall be null and void in the event the Contractor is unable to obtain a valid permits or licenses necessary to complete the Work in the State of West Virginia.
8. Unless otherwise specified in this Contract, Contractor shall neither seek nor accept instructions regarding the Work from any government or from any authority external to the MCEDA. During the period of this Contract, Contractor may not engage in any activity that is incompatible with the discharge of Contractor’s obligations under this Contract. Contractor must exercise the utmost discretion in all matters of official business for the MCEDA.  Contractor may not communicate at any time to any other person, government, or authority external to the MCEDA any information known to him by reason of his association with the MCEDA which has not been made public, except in the course of the performance of Contractor’s obligations under this Contract or by written authorization of the Secretary General or his designate; nor shall Contractor at any time use such information to private advantage. These obligations do not lapse upon Contract termination. Failure to comply with these obligations is cause for termination of this Contract.
9. Contractor shall not openly participate in campaign activities for or otherwise openly support and/or promote any candidate for elected positions in Morgan County, WV; nor shall Contractor use the facilities of the MCEDA and/or its staff provided to him under this Contract to support and promote the candidacy of any candidate for an elected position in Morgan County, WV.
10. The MCEDA may terminate this Contract for cause with five days’ notice in writing to the Contractor.  Cause includes, but is not limited to: failure to complete the Work in accordance with professional standards or to otherwise deliver conforming goods and services; failure to meet deadlines; conduct which damages or could damage relations between the MCEDA and Morgan County, WV; fraudulent misrepresentation; criminal indictment; sexual harassment; workplace harassment; bankruptcy; conduct incommensurate with the requirements for participation in the MCEDA or Morgan County, WV activities; and breach of any of the provisions of this Contract.
11. Either party may terminate this Contract for unforeseen circumstances by giving at least thirty days’ notice in writing to the other.  Unforeseen circumstances include, but are not limited to, modifications to the Program-Budget of the MCEDA; lack of approved funds in the MCEDA Program-Budget for the corresponding program or project; failure of a donor to provide fully the specific funds which were to finance this Contract; an act of God; and the MCEDA's desire to discontinue the Work.
12. In the event this Contract is terminated with or without cause, Contractor shall submit to the MCEDA all of the Work completed and shall receive payment for only that portion of the Work completed to the satisfaction of the MCEDA up until the date of termination.
13. Contractor certifies that:
14. He is not incompetent to enter into this Contract, is not on trial in a criminal court of any of the member states, and has never been convicted of a felony or of any crime involving dishonesty, fraud or theft in any member state.
15. Completion of the Work shall not interfere with the completion of work for which he is responsible under any other contract with the MCEDA.
16. Contractor shall not employ a staff member of the MCEDA or a relative of a staff member as defined in Paragraph 19 (a) above to perform the Work, nor shall Contractor permit any staff member of the MCEDA or any relative of the staff member, as defined in that Paragraph, to receive any personal financial benefit deriving from this Contract or the Contractor's contractual relationship with the MCEDA.
17. Contractor shall not assign this Contract or any element thereof, without the prior written consent of the MCEDA.
18. Upon written notice by either Party to the other, any dispute between the Parties arising out of this Contract may be submitted to either the Inter-American Commercial Arbitration Commission or the American Arbitration Association, for final and binding arbitration in accordance with the selected entity’s rules. The law applicable to the Arbitration proceedings shall be the law of the State of West Virginia, and the language of the arbitration shall be English.
19. Nothing in this Contract constitutes an express or implied waiver by the MCEDA of its privileges and immunities under the laws of the United States of America or international law.
20. This Contract shall enter into effect on the date on which it is signed by both Parties. Provided, further, that this Contract shall have no legal effect until it has been signed by both Contractor and a duly authorized representative of the MCEDA.
21. The law applicable to this Contract is the law of the State of West Virginia.
22. This Contract, including Appendixes I-IV, constitutes the entire agreement between the Parties, and any representation, inducement, or other statements not expressly contained herein shall not be binding on the Parties and shall have no legal effect.
23. The masculine terms employed in this Contract should be understood to apply to males, females and legal persons; singular pronouns should be understood to apply to the plural, when appropriate.

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# APPENDIX 3 – ACCEPTANCES AND PRICING

## ACCEPTANCE OF THE CONTRACTUAL TERMS AND CONDITIONS STATEMENT

**Morgan County Economic Development Authority**

**77 Fairfax St. (mailing)**

**Berkeley Springs, WV 25411**

Attention: EDA Director/**Betsy Heath**

Subject: The MCEDA BID No. MCEDA20160419- COMMERCIAL REAL ESTATE BROKERAGE AND ADVISORY SERVICES

I \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, representative of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Bidder’s name), declare that that \_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Bidder’s name) has read, understood and accepted the Contractual Terms and Conditions as per Appendix 2 of the Request of Proposals of the BID MCEDA20160419.

Sincerely,

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**APPENDIX 3**

**CONFLICT OF INTEREST STATEMENT**

**Morgan County Economic Development Authority**

**77 Fairfax St. (mailing)**

**Berkeley Springs, WV 25411**

Attention: EDA Director/**Betsy Heath**

Subject: the MCEDA BID No. MCEDA20160419- COMMERCIAL REAL ESTATE BROKERAGE AND ADVISORY SERVICES

I \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, representative of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ *(Bidder’s name)*, declare that \_\_\_\_\_\_\_\_\_\_\_\_\_\_ *(Bidder’s name)* does not fall under the following prohibitions:

1. A staff member of the Morgan County Commission or MCEDA;
2. A member of the Morgan County Economic Development Authority;
3. Any delegate, diplomatic representative, or other government employee of Morgan County Commission, the MCEDA or the State of West Virginia;
4. Any relative of a representative or delegate of a Member Municipality to the MCEDA, or Morgan County, WV;
5. Any person who has entered into a performance contract terminated by the MCEDA for cause under the West Virginia State Procurement Rules;
6. Any person employed by an institution that is receiving funds from the MCEDA as part of a the MCEDA project, except in those cases where the employee is on leave without pay from that institution;
7. Any person who is legally incompetent; any person who is on trial in a criminal court of any the MCEDA or Morgan County, WV; or any person convicted of a serious criminal offense in one of the Member States;
8. Any person who has defaulted on and/or failed to perform satisfactorily an existing or previous performance contract or procurement contract with the MCEDA;
9. Any person who does not have a valid visa to work in the country where the performance contract is to be performed and who cannot obtain one prior to the contract initiation date;
10. Any elected official of the MCEDA or Morgan County, WV

Sincerely,

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**APPENDIX 3**

**PRICE**

To: **MCEDA**

From: (Company Name)

Reference: the MCEDA BID MCEDA20160419 – COMMERCIAL REAL ESTATE BROKERAGE AND ADVISORY SERVICES

Our company offers to provide Commercial Real Estate Brokerage and Advisory Services as requested in the RFP BID MCEDA20160419 as follows:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **1. COMMISSION** |  |  |  |  |
|  |  |  |  |  |
| **BROKER NAME** | **FEE FOR LEASING  DIRECTLY WITHOUT  COOPERATING BROKER** | **FEE FOR LEASING  WITH COOPERATING BROKER** | **TOTAL FEE** | **PAYMENT SCHEDULE** |
|  | % | MCDEA Broker to pay cooperating broker directly. | % |  |
|  |  |  |  |  |
| **BROKER NAME** | **FEE FOR SELLING  DIRECTLY WITHOUT  COOPERATING BROKER** | **FEE FOR SELLING  WITH COOPERATING BROKER** | **TOTAL FEE** | **PAYMENT SCHEDULE** |
|  | % | MCDEA Broker to pay cooperating broker directly. | % |  |
|  |  |  |  |  |
| **2. NON COMMISSION FEES** | |  |  |  |
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|  |  |  |  |  |

Table 3 - Pricing Matrix

# ANNEX 1 – 522 Business Park

# Description

Just a 90-minute drive from Washington, D.C., and Baltimore, Morgan County is nestled between Interstate Highways 70, 81 and 68. Two thirds of America's retail customers and industrial suppliers are located within 500 miles. Morgan County offers far more than a superb location. A skilled work force is eager to serve your needs. All sites are complete with water, sewer and streets. West Virginia provides a superior package of financial incentives and worker training programs. Additionally, the Morgan County combines small town sensibilities with big city opportunities. Washington, with its Smithsonian, Kennedy Center and vast art museums; Baltimore, with its Johns Hopkins Medical Center, the Orioles and Ravens -- all are just an easy drive away. And we're proud to reflect West Virginia's tradition of having the nation's lowest rate of crime.

# Property Details

**LOCATION**

* Located in City Limits- No
* County- Morgan
* Located in Business/Industrial Park- Yes

**SIZE**

* Total Acreage - 102
* Total Available Acreage – 35.57
* Maximum Contiguous Acres – 24

**AVAILABLE LOTS**

* Lot 5- 2.8 acres
* Lot 6 – 5.8 acres
* Lot 7b – 2.0 acres
* Lot 8 – 3.07 acres
* Lot 9 – 3.3 acres
* Lot 11 – 2.2 acres
* Lot 12 – 2.4 acres
* Lot 13 – 4.6 acres
* Lot 14 – 5.2 acres
* Lot 15 – 4.2 acres

**TRANSPORTATION**

* Interstate/4 Lane Highway - 18 miles to I-70 Interchange
* Airport- 52 miles to Hagerstown Airport
* Railroad - None
* Navigable River- None

**UTILITIES**

* Electricity- Allegheny Power
* Voltage- 12kV
* Phase- 3
* Gas- None, liquid propane is available on the site
* Water- On site water treatment plant, drilled wells and Warm Springs PSD
* Sewer- On site sewage treatment plant and Warm Springs PSD
* Telephone- Frontier

**PARCEL VIEW**

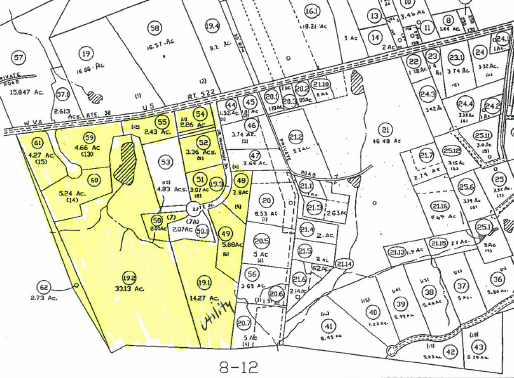


Figure 1 - 522 Business Park

# ANNEX 2 – Robert C. Byrd Industrial Park

# Description

The Robert C. Byrd Industrial Park is located in Paw Paw, WV, and is 31 miles from the I-68 Interchange, and 26 miles to the Cumberland Regional Airport.

# Property Details

**LOCATION**

* Located in City Limits- No
* County- Morgan
* Located in Business/Industrial Park- Yes

**SIZE**

* Total Acreage - 30
* Total Available Acreage – 12.25
* Maximum Contiguous Acres – 12.25

**AVAILABLE LOTS**

* Lot 5- 4.09 acres
* Lot 6 – 3.42 acres
* Lot 7 – 2.44 acres
* Lot 8 – 2.30 acres

**TRANSPORTATION**

* Interstate/4 Lane Highway - 25 miles to I-68 Interchange
* Airport- 26 miles to Cumberland Regional Airport
* Railroad - None
* Navigable River- None

**AERIAL VIEW**

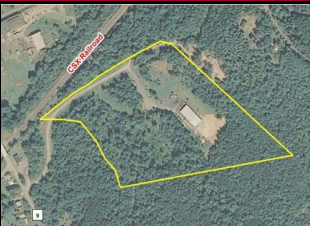


Figure 2 - Robert C. Byrd Industrial Park