

PUBLIC COMMENT ON ANY CDA RESOLUTION LISTED BELOW:

CDA #18 Authorizes Issuance of Request for Proposals and Publication of Notice for a Rail Access Rehabilitation and Development Project at the Calverton Enterprise Park, New York

PUBLIC COMMENT ON ANY REGULAR TOWN BOARD RESOLUTION LISTED BELOW:

- Res. #501 Ratifies Transfer of Ordinance Inspector to the Town Attorney's Office (Nicole Buckner)
- Res. #502 Authorizes Attendance of Two Police Department Employees to LPR Conference
- Res. #503 Amends 2008 Salary Resolution
- Res. #504 Approves Request for Leave of Absence (Debra Sorensen)
- Res. #505 Accepts Resignation of a Conservation Advisory Council Member (Frederick Edel)
- Res. #506 Appoints Student Intern to the Office of Town Hall Operations (Kristen Beal)
- Res. #507 Rescinds Resolution #483 for the Riverhead Recreation Department
- Res. #508 Ratifies the Appointment of Summer Recreation Aides to the Recreation Department
- Res. #509 Amends the Appointment of a Lifeguard to the Recreation Department (Deborah Hennenlotter)
- Res. #510 Appoints a Seasonal Lifeguard Level V to the Recreation Department (David Hegermiller)
- Res. #511 Amends the Appointment of a Beach Attendant/Concession Stand Operator to the Riverhead Recreation Department (Daniel Flood)
- Res. #512 Amends the Appointment of a Scorekeeper to the Riverhead Recreation Department (Kenneth Drumm)

Adopted

June 17, 2008

TOWN OF RIVERHEAD
COMMUNITY DEVELOPMENT AGENCY

RESOLUTION # 18

**AUTHORIZES ISSUANCE OF REQUEST FOR PROPOSALS AND PUBLICATION OF
NOTICE FOR A RAIL ACCESS REHABILITATION AND DEVELOPMENT PROJECT
AT THE CALVERTON ENTERPRISE PARK, NEW YORK**

COUNCILWOMAN BLASS offered the following resolution,

which was seconded by COUNCILMAN DUNLEAVY:

WHEREAS, the Town of Riverhead has adopted a Comprehensive Plan for the Town and a Comprehensive Reuse Plan for the Calverton Enterprise Park, property now known as "EPCAL", providing the basis for the rezoning of the former Grumman property; and

WHEREAS, the Town Board acting in its capacity as the Community Development Agency (CDA) desires to foster the continued development of infrastructure at the EPCAL site to encourage continued economic development at the site consistent with the comprehensive plans; and

WHEREAS, in furtherance of development of infrastructure at EPCAL, the Town Board seeks to solicit proposals for a Rail Access Rehabilitation and Development Project to and from EPCAL.

THEREFORE, BE IT RESOLVED, that Riverhead Town Board authorizes the issuance of the attached Request for Proposals for a Rail Access Rehabilitation and Development Project.

THEREFORE, BE FURTHER IT RESOLVED, that the Riverhead Town Board hereby authorizes publishing and posting of the attached public notice in the Thursday, June 26, 2008 issue of the News Review and to post same on the signboard in Town Hall.

THEREFORE, BE IT FURTHER RESOLVED, that the Town Clerk shall provide notification of this resolution to the Community Development Agency Director.

THE VOTE
Buckley yes no Wooten yes no
Dunleavy yes no Blass yes no
Cardinale yes no
**THE RESOLUTION WAS WAS NOT
THEREFORE DULY ADOPTED**

CKempner

**TOWN OF RIVERHEAD
PUBLIC NOTICE**

PLEASE TAKE NOTICE that the Community Development Agency of the Town of Riverhead is seeking proposals for a Rail Access Rehabilitation and Development Project at the Calverton Enterprise Park, New York.

The Request for Proposals (RFP) is available from the Riverhead Town Clerk, Riverhead Town Hall, 200 Howell Avenue, Riverhead, NY 11901. Proposals are due on or before August 28, 2008.

Dated: June 26, 2008

Barbara Grattan
Riverhead Town Clerk

REQUEST FOR PROPOSALS

Rail Access Rehabilitation and Development Project
Calverton, New York



Town of Riverhead Community Development Agency
June 26, 2008



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VIII. APPENDIX 13

 A. MAP OF EXISTING BUSINESSES AT THE CALVERTON ENTERPRISE PARK

 B. DEC PERMIT (SURVEY AVAILABLE UPON REQUEST WITH COPY FEE PAYMENT)

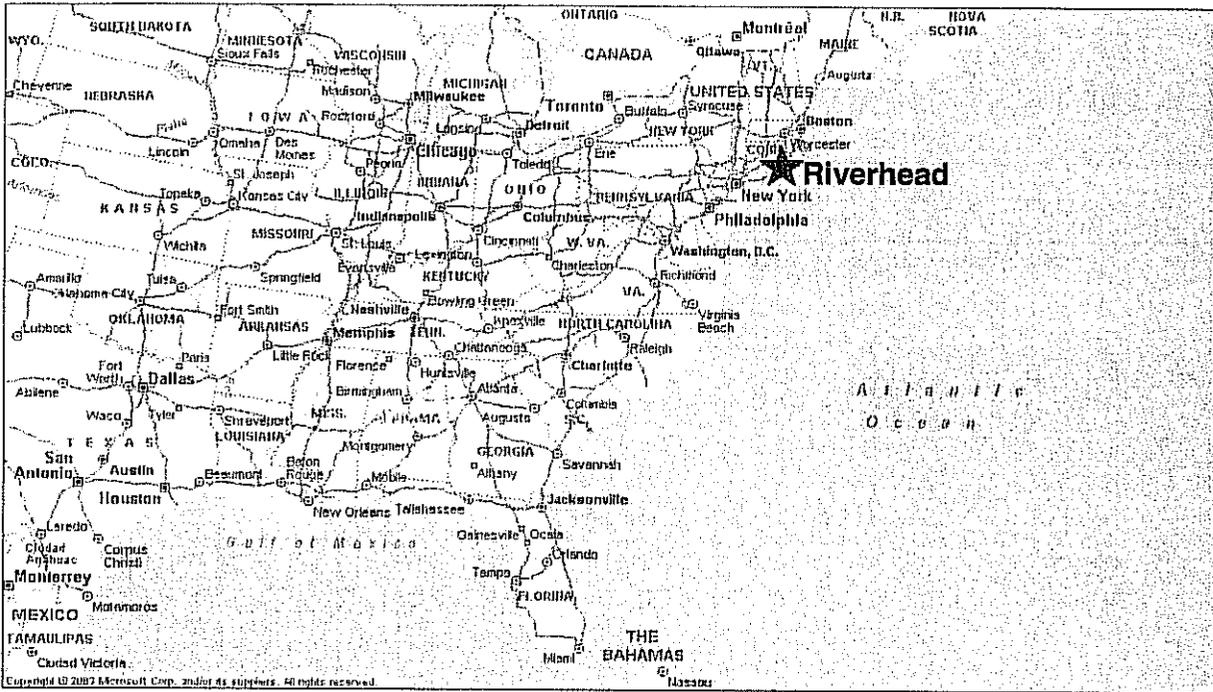
 C. RESOLUTION # ____ AUTHORIZING RFP



PROJECT SUMMARY INTRODUCTION

The Town of Riverhead, Community Development Agency (CDA) seeks to solicit proposals from a creative and qualified developer/operator to rehabilitate rail access for freight transportation to and from the Calverton Enterprise Park, Calverton, New York, formerly a Naval Weapons Industrial Reserve Plant operated by Grumman Corporation.

Eastern U.S. Location Map



Background

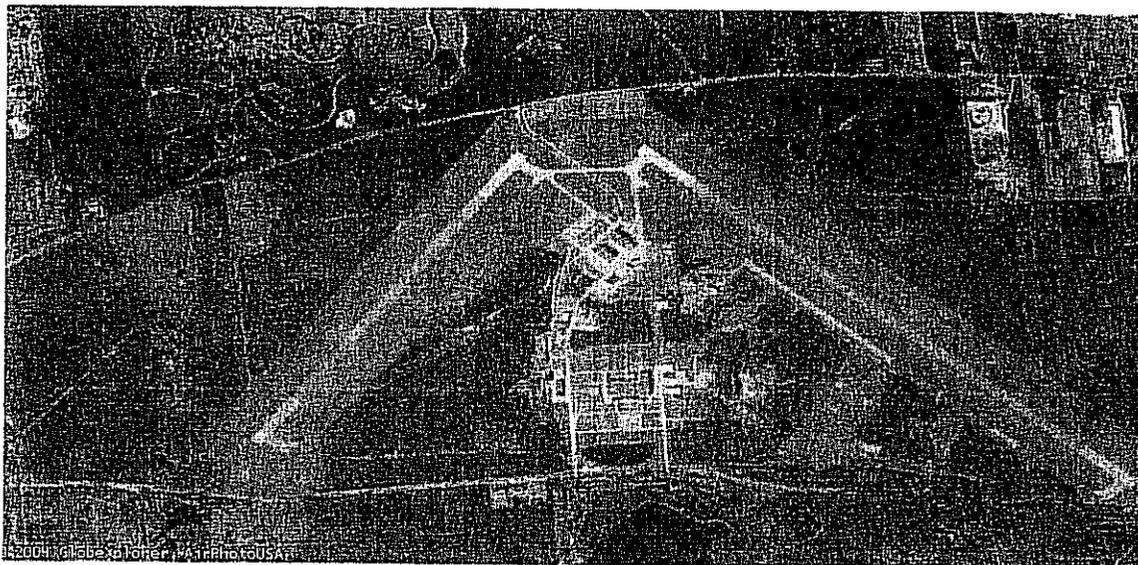
The Calverton Enterprise Park is a planned redevelopment of a 2,900-acre formerly known as the Naval Weapons Industrial Reserve Plant at Calverton. The site was assembled by the Navy in the 1950s and leased to the Grumman Corporation until 1996 for final assembly and flight-testing of military aircraft. In response to defense downsizing by the U.S. Government, the facility was no longer needed by Grumman or the Navy and was transferred to the Town of Riverhead Community Development Agency in September 1998. Planning and redevelopment efforts by the U.S. Navy and the Town of Riverhead began in 1994.

The Town of Riverhead, with a population of approximately 30,000, located on the east end of Long Island (“East End”) in Suffolk County, was founded in 1792. Riverhead lies between the Towns of Brookhaven and Southold and comprises approximately 78 square miles. Located 70 miles from New York City, Riverhead is bounded by the Peconic River and the Great Peconic Bay on the south, and the Long Island Sound on the north.

The objective of the planned redevelopment of the Calverton Enterprise Park is to create a viable mixed-use development to generate jobs and tax base while enhancing the community’s quality of life within the guidelines of being sustainable and sensitive to the surrounding environments. The goals of the redevelopment as established and supported by several Town Boards, are job creation, generation of tax revenues (sales tax, income

tax and property tax), stabilization of local taxes by investment of sales revenues, and preservation of the quality of life for residents of the community. The non-partisan support of local officials, county and state government, and community residents serving as advisors to the town, have resulted in the achievement of consensus on a plan for the reuse of the property.

The property is located between Grumman Boulevard/Swan Road and New York State Route 25 with access off Exit 69 of Long Island Expressway (I-495). The property is also in close proximity to Long Island's North and South ("Hamptons") Fork communities. The site is within sixty miles of to JFK International Airport, LaGuardia Airport, and Islip/MacArthur Airport and transportation is available to the market area by rail as well. An active 10,000-foot runway is an integral part of the Calverton Enterprise Park, serving the industrial park and available to the adjacent 755-acre parcel.



PROJECT REQUEST

FREIGHT RAIL REHABILITATION PROJECT: REQUIREMENTS TO FULFILL TASK

The Request for Proposal seeks creative and qualified consultants to address with detail the following issues:

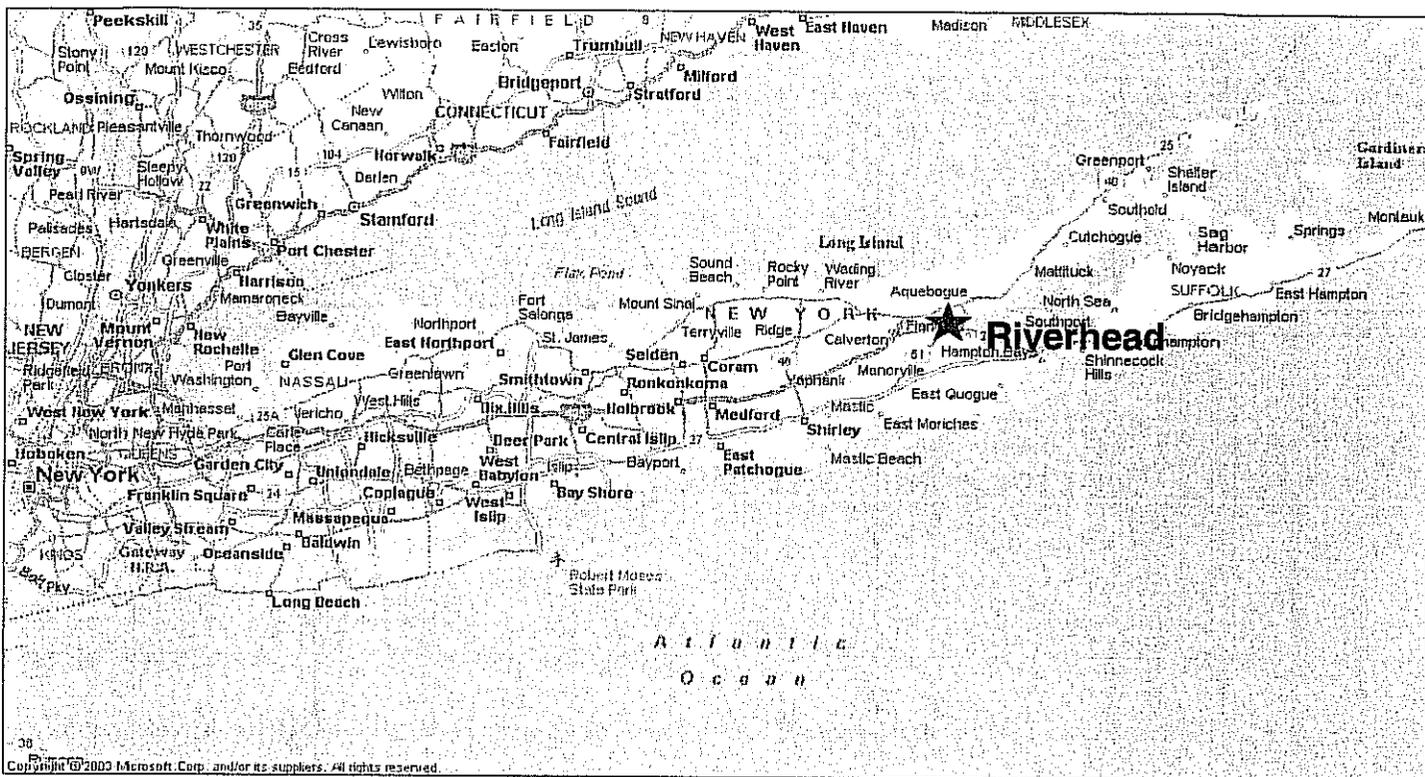
1. analyze existing freight rail infrastructure and provide a cost estimate for an engineering report of the rail spur rehabilitation and extension (where applicable) in accordance with DEC requirements (see permit attached as Appendix A; survey available upon request and payment of copy fees);
2. analyze existing and project future volume of demand for freight rail service at the Calverton Enterprise Park industrial core. The proximate location of the existing rail spur to the operating industrial core site of approximately 480 acres and pending development of two additional sites (a 300 acre industrial park and a 755 acre commercial-recreational project) will significantly contribute to the growth of freight demand to and from Calverton Enterprise Park. Potentially passenger rail options may be explored at the site;
3. Propose fee structures and operational system for the rehabilitated rail access to recoup renovation costs and to account for future maintenance costs.



LOCATION OVERVIEW

LONG ISLAND

The property is located in the eastern portion of Suffolk County which occupies the eastern two thirds of Long Island, New York which extends about 120 miles into the Atlantic Ocean. The county covers roughly a thousand square miles of territory and is 86 miles long and 26 miles wide at its widest point. Three major airports serve the region. Within Suffolk County, the Long Island MacArthur Airport offers service by several regional carriers.



EXISTING SITE ACCESS

Transportation networks of roads and bridges make Suffolk County and Long Island easily accessible by car or truck. Tourism in this region generates over \$2 billion from 25 million visitors annually, and employs more than 90,000 people in sectors that provide these services. The added tourism attraction of rural scenery and vineyards represented in eastern Suffolk's agricultural and farmland acreages provides an escape from the congested areas to the west. Calverton Enterprise Park has convenient access to major markets across the United States, given its location at the easternmost portions of the Long Island Expressway (Interstate 495) and proximity to the Long Island Railroad (LIRR), directly linking Long Island with the Metropolitan New York area.

The Long Island Rail Road (LIRR) is the nation's largest commuter railroad and offers excellent service with regular train service to New York City as well as to Queens, Brooklyn and other destination throughout Long Island. The LIRR transports approximately 80.3 million passengers annually and 276,000 daily in and out of New York City with 735 trains daily stopping at 124 stations.

SUBMISSION GUIDELINES

Proposals received must be presented in the form of the "Terms and Conditions of the Request for Proposal" contained in the following Section no later than August 28, 2008.

A pre-bid meeting will be held at the Calverton Recreational Facility, 4062 Grumman Boulevard, Calverton, New York on Friday, July 11, 2008 at 9:30 a.m. Information regarding businesses located in the Enterprise Park at Calverton will be presented at that time.

The Town of Riverhead is motivated to proceed and offers may be submitted at any time prior to August 28, 2008.

Due diligence review and Property inspections may be arranged by appointment. For additional information, please contact:

Chris Kempner, Director
Town of Riverhead CDA
200 Howell Avenue
Riverhead, NY 11901
Tel. (631) 727-3200 x287
Fax (631) 727-5772
Email: Kempner@riverheadli.com

TERMS AND CONDITIONS

Proposals are to be submitted in compliance with the terms and conditions as set forth herein. Proposals must be submitted, which should be typed (double-spaced), bound (with all required forms), and accompanied by an executed copy of this Request for Proposal (signed by a principal of the submitting Proposal thereby affirming its agreement with the requirements hereof).

1. Required Information Regarding the Proposer

Each submitted Proposal must include, without limitation, the following information to be furnished by the submitting Proposer:

- a. Name of Proposer.
- b. Contact person for the Proposer (must be a principal with name and relevant contact information).
- c. The Proposer's business address (including the address of its primary business operations, and that of its office which will be handling this transaction).
- d. The Proposer's main telephone and facsimile numbers.
- e. A general background of the Proposer, and its business organization, including:
 1. Proven qualifications to carry out a project as outlined in this proposal.
 2. Demonstrated experience in similar rail rehabilitation projects.
 3. Demonstrated experience in design, engineering and environmental sensitivity.
 4. Demonstrated understanding of the Town's vision and goals for the area.
 5. Demonstrated experience of principal project managers.
- f. A description of the Proposer's existing business operations.
- g. At least three (3) project references. Please provide the names, title, company/entity and the address, telephone and other contact information for all references.
- h. A scope of the development of the Project including:
 1. A rehabilitation strategy including timeline and project cost analysis.
 2. A simple site plan that indicates how the developer would propose to situate the transfer station.
 3. A general description of the public improvements which may be required to support the rail access for freight. Potential improvements to consider include landscaping, street crossings, safety mechanisms, etc. The Town understands that engineering has not been initiated and that a



detailed engineering analysis would be undertaken when the project proceeds. However, the Town would appreciate preliminary information about the type of improvements proposed.

4. Proposed fee structure for operating rail access for freight, including market analysis of existing freight demand volume from industrial core site as well as projected demand volume from growth at industrial core, as well as pending developments of two additional sites. (Method for obtaining on-site business info to be discussed with Community Development Agency).
5. Proposed system for operating rehabilitated rail access, including role of Town and potential role of private operator with generalized development pro-forma, detailing sources and uses of funds.
6. A description of the project team.
7. Summary of related rail rehabilitation and development experience, and references from town officials in at least two (2) communities where you have completed similar developments.
8. Any proposed methods of financing operation of the rail rehabilitation and cost of all improvements.
9. Rail rehabilitation schedule.

2. Proposal Delivery Requirements

Submissions must be received on or before the date and time specified above, with eight (8) Proposals, submitted to: Chris Kempner, Director, Community Development Agency, Riverhead Town Hall, 200 Howell Avenue, Riverhead, New York 11901. It is the responsibility of each Proposer to insure that its submission reaches the addresses as specified above. Overnight delivery or courier service due for arrival on the morning of the submission deadline will not guaranty its timely receipt.

3. Confidential Information

The New York State "Freedom of Information Law," Public Officers Law, Article 6, permits access to government records. However, Proposals submitted in response to the RFP may contain technical, financial, or other data the public disclosure of what would cause substantial injury to a Proposer's competitive position, or constitute disclosure of a trade secret. To protect this information and data from disclosure under the State Freedom of Information Law, the Proposer should specifically identify the pages of its Proposal that contain such information (by properly marking the applicable pages "confidential" and inserting the following notice in front of its Proposal).

"NOTICE: The data and information on pages _ (please note pages that contain confidential information) of this Proposal, identified by an asterisk (*) marked along the margin with a vertical line, contain technical or financial information which are trade secrets and/or whose disclosure would cause substantial injury to the Proposer's competitive position. The Proposer requests that such data and/or information be used only for the evaluation of the Proposal, but understands that disclosure will be limited to the extent that the CDA shall have the right to use or disclose the data and/or information, as provided for under the terms of the Contract, unless otherwise obligated by law."

The Town of Riverhead Community Development Agency assumes no responsibility for disclosure or use of unmarked data for any purpose. In the event properly marked data is requested pursuant to the Freedom of Information Law, the Proposer will be advised of such request. In response thereto, the Proposer may expeditiously submit to the Town of Riverhead Community Development Agency a detailed statement indicating any and all reason it might have for believing that the marked information is exempt from disclosure under the law. This statement will be used by the Town of Riverhead Community Development Agency in making its determination as to whether or not disclosure is proper under the law, which determination shall be binding on the Proposer.

4. Rights and Options

This RFP constitutes merely an invitation to make Proposals to the Town of Riverhead Community Development Agency. Accordingly, the Town of Riverhead Community Development Agency reserves, holds, and may (in its sole discretion) exercise any or all of the following rights and options with respect to the notice of RFP, this RFP, and the Contract, without any liability therefore to the Town of Riverhead Community Development Agency.

To select and enter into a Contract with the Proposer whose Proposal best satisfies the overall interests of the CDA.

This RFP process is not a strictly competitive "bid" process, and the Proposer submitting the lowest cost Proposal will not be automatically selected. The CDA instead reserves the right to select the Proposal which is believed to be most beneficial to the CDA, without having the amount of financial compensation being the sole determinative factor therefore. The CDA's decision-making/selection process will be discretionary and be based upon a variety of factors stipulated in NYS General Municipal Law Article 15 and the Rules and Regulations of the CDA adopted May 18, 2004. By submission of its Proposal, it is expressly understood, acknowledged, and accepted by submitting Proposer that this is not a bid, and that the CDA is under no obligation to award a contract through competitive bidding (or at all).

- a. The CDA reserves the right to use any criteria it may choose in selecting a successful Proposer, and to give whatever weight it may (in its sole discretion) deem advisable to the various elements of a Proposal and/or elect to accept a Proposal that does not offer the highest monetary consideration to the CDA.
- b. The CDA reserves the right to waive any informalities, requirements, or guidelines set forth in the notice of RFP regarding the deadline for requesting the RFP (if any), or in this RFP regarding the submission or evaluation of Proposals (including postponing the submission deadline).
- c. The CDA reserves the right to reject any and all Proposals at any time, in its sole discretion, for any reason whatsoever.
- d. The CDA reserves the right to accept any Proposal, in part or in whole.
- e. The CDA reserves the right to evaluate any Proposal in a manner different from the procedures outlined and specified in this RFP, in its sole discretion.
- f. The CDA reserves the right to interview any or all Proposers, which interviews may be conducted privately, without the other Proposers being present (thereby excluding from the

presentation/interview process those Proposers whose Proposals are not the subject of the interview).

- g. The CDA reserves the right to conduct investigations with respect to the qualifications of each Proposer; to make field investigations with respect to such Proposals (including visits to the Proposer's business offices or field operations); and, if so decided, to hold public hearings with respect to the merits of each Proposal consistent with Article 15 of the NYS General Municipal Law and the Rules & Regulations of the Riverhead CDA as adopted May 18, 2004 or as further amended.
- h. The CDA reserves the right to request additional information from any Proposer and to rely upon any information obtained through the Town's own investigations.
- i. The CDA reserves the right to cancel this RFP at any time whatsoever, with or without the substitution of another RFP.
- j. The CDA reserves the right to supplement, amend, or otherwise modify this RFP.
- k. The CDA reserves the right to issue additional or subsequent RFPs.
- l. The CDA reserves the right to negotiate with any Proposer, or all, or none of the Proposers, and further reserves the right to discontinue any such negotiations, at any time and in the Town's sole discretion, for any or no reason.
- m. The CDA reserves the right to negotiate with any or all Proposers for amendments or other modifications to their Proposals.
- n. The CDA reserves the right to request new or revised Proposals, including monetary offers from any Proposer at any time.

5. Proposal Procedures and Conditions

- a. **Expenses of Proposal Preparation.** Each Proposal prepared in response to this RFP will be prepared solely at the cost and expense of the Proposer with the express understanding that there will be no claim whatsoever for reimbursement from CDA for any cost or expense incurred in its preparation. Nor will there be any claims whatsoever for reimbursement from the CDA for any other costs or expenses incurred by any Proposer, including, without limitation, the selected Proposer.
- b. **Required Forms.** All Proposals must be typed. Proposers are free to, and are encouraged to, submit supplementary information as attachments. The parties hereto expressly acknowledge, accept, and agree that all documents submitted in response to this RFP will become the property of the Town of Riverhead Community Development Agency and will not be returned.
- c. **Except as hereinafter provided.** No officer, agent, or employee of the Town is authorized to amend any of the provisions or specifications contained in this RFP. Accordingly, all changes, if any, must appear as a written addendum attached to this RFP, and be made under the signature of the Chairman.

- d. **Changes to this RFP.** The CDA reserves the right to make any additions, deletions, corrections, or changes to the RFP package. In addition, the CDA may issue an interpretation or clarification of Proposal submission requirements, or procedures, or of any terms and conditions of any document contained in or required by the RFP package.
- e. **Addenda to this RFP.** Any such addenda by the CDA will be delivered and made in writing to all Proposers who have requested an RFP package and/or returned a completed RFP submission. All such Proposers will be required to acknowledge receipt of any such addenda issued by the CDA, by returning and/or attaching a signed and dated copy of the addenda transmission cover sheet as may be instructed in the addenda transmittal.
- f. **Modifications of Proposals.** A submitted Proposal may be modified by the submitting Proposer, in part or in whole, by a written document executed in the same manner and in the same number as the original, submitted Proposal (i.e., with original verification and original supporting forms), provided such modification is received by the Community Development Agency prior to the stated submission deadline. Such modification must be submitted by such valid means as set forth herein for submission of a Proposal, and which is endorsed on the front thereof with the words "Calverton Enterprise Park Rail Rehabilitation Proposal"
- g. **Withdrawal of Proposals.** A Proposer may, by written request (made with an original stipulation), withdraw its Proposal, provided such request is received by the Community Development Agency prior to the submission deadline. Such request must be submitted in an envelope clearly showing the return address of the submitting Proposer, and which is endorsed on the front thereof with the words "Calverton Enterprise Park Rail Rehabilitation Proposal – Withdrawn".
- h. **Late Filings.** Proposals, modifications of Proposals, and withdrawal requests received by the CDA after the submission deadline will not be considered, and will be returned to the Proposer unopened.
- i. **Proposers' Exceptions to the RFP.** Should a Proposer take exception to any provision of this RFP, such exception must be clearly stated (referencing the affected section, paragraph, and page in this RFP), must set forth the reason(s) for the objection, and indicate what (if any) alternative is being offered by the objecting Proposer to the CDA as to a substitute provision. When exception(s) are taken, the CDA shall determine (in its sole discretion) the acceptability of the proposed exception(s). Exceptions may be accepted or rejected, and the CDA is under no obligation to accept any such exceptions or proposed alternatives. Where exceptions are rejected, the CDA may insist that the Proposer negotiate an acceptable alternative thereto. In the event of an impasse, the CDA may permit a Proposer to withdraw its Proposal; however, in such circumstances, the Proposer will be disqualified from any further proceeding under the instant RFP. If no exceptions are stated, the CDA shall assume that the Proposer has accepted all the terms and conditions of the RFP package.
- j. **Oral Presentations.** The CDA may require Proposers to give oral presentations in support of their Proposals, and to exhibit or otherwise demonstrate the information contained therein. Such presentations will be conducted privately, one Proposer at a time. Non-presenting Proposers will



be excluded from any other Proposer's presentation. No oral presentation will be permitted, unless a Proposer has timely filed a complete written Proposal.

- k. **Negotiations.** The CDA may issue its Notice of Award on the basis of initial Proposals received without discussions or negotiations. Accordingly, the CDA reserves the right to enter into Contract (and/or Contract negotiations) with any selected Proposer. If the CDA and the selected Proposer cannot successfully negotiate a Contract acceptable to the CDA, then the CDA may declare that said negotiations are terminated and begin negotiations with an alternate selected Proposer. No Proposer shall have any rights against the CDA (for purchase of the Property or otherwise) arising from such negotiations or the termination thereof.
- l. **Conflicting Provisions.** The Contract will constitute the entire understanding and agreement between the CDA and the selected Proposer, and shall set forth all the terms and conditions therefore. In the case of a conflict between this RFP and the Contract, the Contract shall control.
- m. **Proposal Award.** The CDA intends to enter into contract negotiations with the Proposer selected by the CDA's RFP evaluation committee including the Economic Development Corp. If the selected Proposer (who shall receive a "Notice of Award" letter from the CDA's RFP evaluation committee) fails to enter into negotiations or fails to execute and return the tendered Contract (together with any necessary documents, attachments, affidavits, and/or deposits) within ten (10) days after the issuance of such Notice of Award letter, then the CDA, at its sole option, may determine and declare that said Proposer has abandoned the Contract and a Notice of Award may be issued to the next most qualified and selected Proposer for the purchase of the Property. Neither the issuance of a Notice of Award nor the negotiation of the Contract with the selected Proposer shall constitute the CDA's acceptance of the Proposal or a binding commitment on behalf of the CDA to enter into a Contract with such Proposer.
- n. **Assignments.** No Proposer who has submitted a Proposal to the CDA pursuant hereto shall have the right to assign its submitted Proposal or, if selected therefore, the Notice of Award or Contract without the prior written consent of the CDA. Any purported assignment by a Proposer in violation of this RFP shall be voidable at the option of the CDA. The CDA's refusal to consent to an assignment shall not entitle the assigning Proposer to cancel the submitted Proposal and/or Contract (if fully executed), or give rise to any claim for damages against the CDA.
- o. **Time Is Of The Essence.** The Contract shall contain a provision that "TIME IS OF THE ESSENCE" as to the Proposer's obligations, and there shall be no extension of the time to Close thereunder except as otherwise provided for in the Contract.
- p. **No Financial Guarantees.** The CDA makes no representations whatsoever regarding the financial viability of any proposed use for the Property made by any submitting Proposer.

6. Further Terms and Conditions

- a. **Legislative Approval Necessary.** The acceptance of any Proposal and the execution of the Contract by the CDA are and shall be expressly subject to the approval thereof by the Town of Riverhead CDA , subject to the provisions of Article 15 of the NYS General Municipal Law and the Rules Regulations of the CDA as adopted May 8, 2004. At any time prior to the CDA Board approval, the CDA reserves the

right, in its sole and absolute discretion, to withdraw this RFP, and/or withdraw any Notice of Award of any Proposal, and upon return of the good faith deposit, without interest, the CDA shall have no further obligation to any Proposer.

b. Due Diligence.

- i. The selected Proposer shall have the right, at its own cost and expense, to conduct an engineering inspection of the physical condition of the existing rail on the Property ("Engineering Inspection") within thirty (30) days of its receipt of the Notice of Award letter. If the engineering inspection discloses material defects that could not have been reasonably discovered during the initial property inspection, prior to submission of the Proposal by the Proposer, then the selected Proposer may elect to withdraw its Proposal by notifying the CDA within forty-five (45) days of the date of the Notice of Award letter, and the CDA shall return the good faith deposit, without interest, and withdraw the Notice of Award, in which case its Proposal shall be deemed void and of no further effect, and said Proposer shall have no claim for costs or damages against the CDA as a result thereof. If the selected Proposer fails to perform inspections or notify the CDA within the specified time periods, it shall be conclusively deemed to have waived any and all rights to utilize the results of any of said inspections to withdraw their Proposal, cancel the Contract, or avoid any duties and obligations hereunder.
 - ii. Upon the receipt of the Notice of Award letter, CDA authorizes Proposer and its agents to enter upon the Property to perform inspections, provided that prior to any such entry, Proposer and each such entering agent shall have (A) delivered to CDA a certificate of insurance indicating Proposer has liability insurance naming the CDA as an additional insured in an amount of \$3,000,000.00 and (B) agreed to indemnify and hold harmless the CDA from all loss, cost, claim or damage caused by Proposer's or agents' due diligence review. All entry shall be during reasonable business hours with reasonable notice to CDA. All entry shall be at the sole risk and expense of Proposer, its employees, agents, servants, representatives and contractors. This provision shall survive the closing.
- c. Disclaimer.** The information provided herein has been secured from sources deemed reliable, but the CDA makes no representations or warranties to Proposer (express or implied) as to the accuracy, comprehensiveness or sufficiency of such information.
- d. No Contract.** Irrespective of any of the other terms hereof, by submission of its Proposal, each and every submitting Proposer thereby expressly understands and agrees that this RFP shall not be construed as an offer to contract.
- e. Proposal Award.** The Town intends to enter into contract negotiations with the Proposer selected by the Town's RFP evaluation committee. If the selected Proposer (who shall receive a "Notice of Award" letter from the Town's RFP evaluation committee) fails to enter into negotiations or fails to execute and return the tendered Contract (together with any necessary documents, attachments, affidavits, and/or deposits) within ten (10) days after the issuance of such Notice of Award letter, then the Town, at its sole option, may determine and declare that said Proposer has abandoned the Contract, and a Notice of Award may be issued to the next most qualified and selected Proposer for the purchase of the Property. Neither the issuance of a Notice of Award nor the negotiation of the Contract with the selected Proposer shall

constitute the Town's acceptance of the Proposal or a binding commitment on behalf of the Town to enter into a Contract with such Proposer.

f. **Governing Law.** This RFP shall be construed in accordance with and governed by the laws of the State of New York, without regard to New York conflicts of law principles. All actions or proceedings relating, directly or indirectly, to this RFP shall be litigated only in courts located within Suffolk County or, if in the federal courts, in the United States District Court for the Eastern District of New York, and Proposer, its successors and/or assigns (if any), by signing below subject itself to the jurisdiction of any such state or federal court, and PROPOSER HEREBY WAIVES ANY RIGHT TO TRIAL BY JURY.

g. **Inconsistency.** If there are any inconsistencies between the Terms of the RFP and the Contract, the Terms of the Contract shall prevail.

The CDA thanks you once again for your interest and your acceptance of this RFP. We wish you good luck in the preparation of your Proposal, and looks forward to receipt of your submission thereof.

ACKNOWLEDGEMENT, AGREEMENT AND ACCEPTANCE

I have read the requirements for a selected Proposer, acknowledge, agree and accept the terms and requirements hereof, and will be able to comply with them if selected as the purchasing Proposer.

Signed: _____ Dated: _____

Name: _____ Title: _____

Proposer: _____

Company Name: _____

Address: _____

Telephone: _____ Facsimile: _____ E-mail: _____

