

CAPE COD COMMISSION

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DEVELOPMENT AGREEMENT

Falmouth Technology Park

This Agreement is entered into this 21st day of February, 2006 by and between the Cape Cod Commission (hereinafter "CCC") and the Falmouth Economic Development Industrial Corporation (hereinafter "FEDIC");

WHEREAS, the CCC is a county agency established by Chapter 716 of the Acts of 1989, as amended (hereinafter "Act");

WHEREAS, the CCC is authorized to enter into Development Agreements pursuant to Section 14 of the Act and Barnstable County Ordinance 92-1 establishing CCC regulations for the purpose of Enabling Development Agreements;

WHEREAS, the CCC reviews Developments of Regional Impact (hereinafter "DRIs"). A DRI is a development which, because of its magnitude or the magnitude of its impact on the natural or built environment, is likely to present development issues significant to or affecting more than one municipality, and which conforms to the criteria established in the applicable standards and criteria for DRI pursuant to Section 12 of the Act;

WHEREAS, FEDIC is a quasi-public entity established under M.G.L. Chapter 121C by a vote of the Falmouth Town Meeting on April 7, 1981, with a place of business at the Town Hall, Falmouth, Barnstable County, Massachusetts;

WHEREAS, FEDIC submitted subdivision plans to the Town of Falmouth Planning Board concerning a proposal to build the Falmouth Technology Park (hereinafter "Park") in three phases, to be located on Thomas Landers Road within Falmouth. More specifically, Phase I of the project, involving 50 acres, was created pursuant to MGL Chapter 41 Section 81P as "approval not required" lots off a public way. Phase II of the project was approved by the Falmouth Planning Board as shown on the endorsed definitive plan dated 7/3/90 and revised 9/28/90 and involving 18.83 acres. Phase III of the project was approved by the Falmouth Planning Board as shown on the endorsed definitive plan dated 1/4/90, revised 3/23/90 and 7/30/90 and involved 56.19 acres;

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WHEREAS, the build out/traffic study (Falmouth Technology Park Build-Out Analysis and Traffic Report, Falmouth Planning Office, B.A. Currie, September 16, 1992) and the wastewater study (An Assessment of Nutrient Loading to West Falmouth Harbor from the Falmouth Technology Park and Other Sources, B.L. Howes/D.W. Bourne/N.P. Millham, July 1, 1992) conducted by the FEDIC shows development limitations of the Park based on the identified environmental factors and municipal infrastructure limitations of the study areas around the Park;

WHEREAS, nitrogen loading analyses completed by the CCC through the Cape Cod Coastal Embayment project (Interim Final Report 9/98), and water quality and ecosystem analyses completed by the Center for Marine Science & Technology – University of Massachusetts – Dartmouth (B.L. Howes, K.N. Smith and G.R. Hampton, 1999) confirm existing excessive nitrogen loads to West Falmouth Harbor;

WHEREAS, the Park is located within the watershed to West Falmouth Harbor;

WHEREAS, Title 5 regulations require the use of denitrifying septic systems in Nitrogen Sensitive Areas for systems with flows 2,000 gallons per day (gpd) or greater;

WHEREAS, the Commission and the FEDIC have previously reviewed water use within the Park, and determined that the estimated average water use is approximately 12 gpd per 1,000 square feet of building (with a range of 8.66 to 15.70 gpd/1,000 square feet), and determined that the use of this average flow for the projected 600,000 square feet build out of the Park is estimated to result in 7,309 gpd of water use;

WHEREAS, the Commission and the FEDIC have agreed that treating 7,309 gpd of wastewater with standard Title 5 septic systems will result in an annual load of 353.4 kilograms of nitrogen to the West Falmouth Harbor embayment system;

WHEREAS, the Commission and the FEDIC have agreed that treating 353.4 kilograms would require the upgrade of septic systems at 68.4 houses from Title 5 systems to denitrifying septic systems at the cost of \$8,000 per upgrade for a total of \$547,200;

WHEREAS, the Town of Falmouth has committed to provide funding of \$306,000 for transportation improvements and programs to benefit the study area according to the following schedule: 2005 - \$27,000, 2006 - \$34,000, 2007-\$40,000, 2008 - \$60,000, 2009 - \$69,000, - 2010 - \$70,000;

WHEREAS, development limitations of the Park and the study area surrounding the Park pertaining to environmental factors, traffic, and water resources require certain mitigation for activities in the Park related to traffic and water resources impacts for Stage 1 as amended, and mitigation for all development – related impacts for Stage 2, Stage 2A and 3 as amended;

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WHEREAS, the CCC and FEDIC first entered into an Agreement concerning the Park in January 1993;

WHEREAS, since its inception in 1993, this Agreement was first modified in January 1998. This modification added a new stage, Stage 1A, to this Agreement and adjusted how much potential square footage was linked to each stage, spreading the total potential 1,585,127 square feet of gross floor area over 4 stages (1, 1A, 2, 3) instead of the originally-envisioned three. This modification also changed the order in which certain requirements of the Agreement were to be completed, to coincide with the addition of Stage 1A. This modification did not increase or decrease the total square footage permitted by the Agreement; nor did it add new requirements;

WHEREAS, a second modification to this Agreement occurred in July 2000, which reduced the total development permitted to 600,000 square feet. This modification re-ordered which requirements were linked to each of the 4 stages (1, 1A, 2, 3) to account for the reduction in the maximum amount of permitted square footage;

WHEREAS, The FEDIC authorized construction of new projects as part of Stages 1, 1A, 2, and 3, as amended;

WHEREAS, the CCC issued a Certificate of Compliance for Stage 1 of the Agreement on April 25, 1994;

WHEREAS, in order to obtain a Certificate of Compliance from the CCC for Stages 1, 1A, 2 and 3, the July 2000 Agreement requires that certain items be completed;

WHEREAS, as of December 1, 2005, according to information provided by the Town of Falmouth Planning Office, 246,620 square feet of interior space and 291,000 square feet of Gross Floor Area of development in the Park has been completed/built;

WHEREAS, as of December 1, 2005, the FEDIC submitted information to the CCC that the following requirements of Stages 1, 1A, 2 and 3 of the Agreement, as amended, have been addressed:

- The FEDIC completed the required Hazardous Waste and Materials Management Plan and a Spill Response Plan, with technical assistance from the CCC,
- The Town of Falmouth has verified that contributions required to be made to date by the FEDIC to address nitrogen loading impacts to the West Falmouth Watershed have been made,
- The Town of Falmouth bylaws include provisions requiring low water use and reduced fertilizer use landscaping restrictions,

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- The FEDIC provided evidence that the Board of Selectmen developed and continues to implement a Capital Improvements Plan in order to address Park-related traffic mitigation issues,
- The FEDIC submitted for CCC review and approval a scope of work for a traffic study,
- \$30,000 had been placed in escrow for use in the Town of Falmouth for transportation improvements, where part of this escrow was being used to complete the CCC-approved traffic study consistent with this Agreement and current CCC practices to design such a study,
- The FEDIC, between 2000 and 2004 sought to improve the Park's wireless high speed telecommunications system,
- The FEDIC submitted a draft Travel Demand Management plan for CCC review,
- The FEDIC performed traffic counts on Technology Park Drive and Research Road in July and August 2005 and submitted a report to CCC staff,
- The FEDIC submitted evidence that the Town, since February 20, 2001, has implemented a policy to increase pedestrian use of roadways, including provision of sidewalks and bikeway access on public roads,
- The Assistant Town Administrator confirmed in a December 1, 2005 letter that the July 13, 2004 purchase of a 71.33 acre on Carriage Shop Road (Allen parcel) was to address the requirements of this Agreement to lessen future traffic impacts, and nitrogen loading;
- The FEDIC submitted evidence that Board of Selectmen voted in 2000 to become part of this Agreement, and
- The FEDIC submitted evidence that in 2000, the Board of Selectmen would seek approval of a Development Agreement bylaw by Town Meeting;

WHEREAS, in order to obtain a Certificate of Compliance from the CCC for Stages 1, 1A, 2 and 3, the July 2000 Agreement requires that certain items be completed, which remain outstanding:

- Verification that all development built as of December 1, 2005 that has a Title 5 wastewater flow of greater than 15.7 gallons per day per 1,000 square feet of building or a total flow of 2,000 gallons per day has been built with a denitrifying septic system, and
- Completion of a traffic study in accordance with the *Request for Quotations/Proposals* (hereinafter "RFP") issued by the FEDIC, and the *Traffic Impact Study for the Falmouth Technology Park* by MS Transportation Systems, Inc., dated November 10, 2005 (both are Attachment B);

WHEREAS, on October 28, 2005, the FEDIC filed a request with the CCC to further modify this Agreement to authorize construction of new projects as part of a new Stage 2A encompassing 120,000 square feet of development in the Park without changing the total Park build out of 600,000 square feet;

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WHEREAS, the CCC is in agreement that a new Stage 2A may be created allowing for a new timetable for its requirements provided additional reporting requirements are incorporated into this Agreement as outlined in Section G; and

WHEREAS, due to the quasi-governmental economic development efforts that the Park represents, the Town of Falmouth remains committed to mitigating the impacts of development in the Park through municipal offsets for the outstanding issue areas.

NOW THEREFORE, in consideration of the provisions and requirements of this Agreement, the CCC's agreement to waive mandatory DRI review for the life of this Agreement, the CCC's agreement to allow for an additional Stage 2A to be inserted into this Agreement, the FEDIC's agreement to complete the transportation study identified in Section B of this Agreement, below, the FEDIC's agreement to begin additional reporting requirements as outlined in Section G of this Agreement, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree to the amendment of the Development Agreement by substitution in its entirety of this Agreement, which shall include the phasing of developments within the Park in order to ensure protection of the environment and timely commitment to capital investments for timely completion of needed public infrastructure.

Developments which comply with all conditions contained in this Agreement shall not require referral to the CCC as DRIs for the life of this Agreement, with the exception of those excluded from this Agreement under Section C.

In order to ensure the continuance of a compatible environment for primarily high technology industries to operate at the Park, to sustain a good business environment, and to ensure that future development within the Park is compatible with the values and purposes of the Act and the Regional Policy Plan (hereinafter "RPP"), the CCC and FEDIC, the Parties hereto stipulate and agree as follows:

A. Application of the Act and Regulations

All applicable codes, bylaws and regulations of the Town of Falmouth, the provision of the Park's Protective Covenants (Attachment A), the Act, and the RPP shall apply to developments within the Park except as limited or changed by this Agreement. In the event of a conflict between the following requirements and any applicable code, bylaw, covenants, or regulations, the more restrictive requirements shall apply.

B. Remaining Timetable of this Agreement (Phasing)

The Parties agree to the phasing of the remaining development within the Park in order to ensure protection of the environment, to advance the commitment to capital investments, and to advance the timely completion of needed public infrastructure.

The Parties agree that the 2000 Agreement is amended to create a new Stage 2A.

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Stage 2A

In Stage 2A of this Agreement, the FEDIC may authorize the construction of and the Town of Falmouth may issue Building Permits for an additional 120,000 square feet of Gross Floor Area (for a total of 420,000 square feet) within the Park provided the following items are concurrently addressed:

- 1) To continue to address the total nitrogen impact of full build-out of the Park, the FEDIC will continue to contribute towards a \$220,000 escrow account to the Town of Falmouth to be used for nitrogen impacts in the West Falmouth Watershed. Payments into the escrow account will be as follows: June 2006 - \$50,000, June 2008 - \$20,000. Payment of these remaining escrow amounts shall occur according to this schedule, or prior to issuance of a Certificate of Compliance by the CCC for Stage 3, whichever is sooner;
- 2) In the event that a new or expanded project in Stage 2A has a Title 5 wastewater flow of greater than 15.7 gallons per day per 1,000 square feet of building or a total flow of 2,000 gallons per day, the FEDIC will require a denitrifying septic system for that project;
- 3) FEDIC will require the property owner and/or developer to provide to the CCC copies of building and septic permit applications (together with Title 5 flow information) at the same time as such are submitted to the Town of Falmouth unless such information has been submitted in the most recent six month report as identified in Section G of this Agreement;
- 4) FEDIC will provide to the CCC copies of approved building, occupancy and septic system permits (together with Title 5 flow information) at the same time as such are issued by the Town of Falmouth;
- 5) FEDIC will continue to implement a low water and reduced fertilizer use landscaping restriction for all future development in the Park;
- 6) FEDIC will finalize a Travel Demand Management (TDM) Plan for the Park to include the following modifications:
 - Identify and provide incentives for automobile trip reduction, such as coupons for purchasing meals, entry into weekly drawings for prizes.
 - Designate a minimum of one space at each building or worksite as preferential parking for carpooling. Signs for such designated preferential parking spaces shall be consistent with those provided by *MassRides*.
 - Participate in *MassRides* Emergency Ride Home Program.

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- Provide examples of trip reduction promotional materials consistent with *MassRides* sample materials.

7) The FEDIC agrees to incorporate, where feasible, employee amenities into all development that is part of Stage 2A, where such amenities are designed to reduce the need for travel during the work day. Examples of such amenities include ATMs, childcare facilities, snack bars, news stands, neighborhood stores and cafeterias; and

8) FEDIC will undertake a transportation study, consistent with the scope approved by CCC staff, with the RFP, and with the *Traffic Impact Study for the Falmouth Technology Park* by MS Transportation Systems, Inc., dated November 10, 2005 (both are Attachment B) to identify needed traffic flow and safety improvements at study area intersections.

9) FEDIC, with CCC staff assistance, will create a plan to facilitate the separation, collection, and marketing of recyclable materials generated by Occupants.

Upon completion of all of these requirements, the FEDIC may seek a Certificate of Compliance from the CCC for Stage 2A (hereinafter "Stage 2A Certificate"). The CCC shall have 30 calendar days from the receipt of this request to complete a compliance review. Should any item remain incomplete, the CCC will notify the FEDIC at the following addresses - *Town Administrator/Selectmen's Office, 59 Town Hall Square, Falmouth, MA 02540 and Care of Attorney Patrick Butler, Nutter, McClennen & Fish, 1513 Lyannough Road, P.O. Box 1630, Hyannis, MA 02601-1630* - of those items to be completed. The FEDIC may subsequently seek a Stage 2A Certificate of Compliance once these identified items are complete. The CCC shall issue a Stage 2A Certificate of Compliance indicating compliance with the requirements of Stage 2A of this Agreement once the CCC determines that the above requirements have been completed to its satisfaction.

During Stage 2A, the Town of Falmouth may issue Certificates of Use/Occupancy for up to 120,000 square feet of Gross Floor Area within the Park.

Stage 3

Prior to the FEDIC's authorization of the construction of an additional 180,000 square feet of Gross Floor Area (for a total build out of 600,000 square feet) within the Park, and prior to the issuance of any Building Permits for any additional development, the FEDIC shall seek a Preliminary Stage 3 Certificate of Compliance from the CCC. In order to receive a Preliminary Stage 3 Certificate of Compliance from the CCC, the FEDIC shall:

- 1) Using the transportation study referred to in the WHEREAS clauses, and in Section B of this Agreement, Stage 2A, item 7, and in Attachment

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B, identify needed traffic flow and safety improvements necessary to mitigate traffic generated by the Park at study area intersections as identified by the traffic study, and will provide the CCC with a schedule for implementation of these improvements, which is to be reviewed and approved by the CCC transportation staff;

2) CCC staff and FEDIC will review actual traffic data to determine whether a left turn lane is warranted at either or both of the Park entrance drives in accordance with national or state standards including but not limited to the American Association of State Highway and Transportation Officials (AASHTO) standards for turn lane warrants. At the point at which a left turn lane or lanes is/are warranted, the Parties, together with Town of Falmouth representatives, shall meet to discuss any proposed left turn lane or lanes prior to their implementation, however no further construction in the Park will occur until any warranted left turn lane or lanes is/are constructed;

3) The FEDIC shall implement the traffic flow and safety improvements identified in the transportation study referred to above, or shall contribute monies to an escrow account using a methodology consistent with the CCC Technical Bulletin 96-003 (as amended); and

4) In the event that any development built as of December 1, 2005 has a Title 5 wastewater flow of greater than 15.7 gallons per day per 1,000 square feet of building or a total flow of 2,000 gallons per day, but was built without a denitrifying septic system, the FEDIC shall require that these developments install a denitrifying septic system, or shall require the property owner and/or developer to contribute an equivalent amount to the escrow account noted in Section B of this Agreement, Stage 2A, item 1), consistent with the method for calculating the cost of an alternative septic system outlined in the WHEREAS clauses on page 2, in order to ensure that nitrogen loading from these developments is addressed.

Upon completion of all of these requirements, and prior to authorization of the construction of or seeking or obtaining issuance of Building Permits for any development in Stage 3, the FEDIC may seek a Preliminary Certificate of Compliance from the CCC for Stage 3 (hereinafter "Preliminary Stage 3 Certificate"). The CCC shall have 30 calendar days from the receipt of this request to complete a compliance review. Should any item remain incomplete, the CCC will notify the FEDIC at the following addresses - *Town Administrator/Selectmen's Office, 59 Town Hall Square, Falmouth, MA 02540 and Care of Attorney Patrick Butler, Nutter, McClennen & Fish, 1513 Lyannough Road, P.O. Box 1630, Hyannis, MA 02601-1630* - of those items to be completed. The FEDIC may subsequently seek a Preliminary Stage 3 Certificate of Compliance once these identified items are complete. The CCC shall issue a Preliminary Stage 3 Certificate of Compliance indicating compliance with the

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requirements of Stage 3 of this Agreement once the CCC determines that the above requirements have been completed to its satisfaction.

In Stage 3 of this Agreement, the FEDIC may authorize the construction of an additional 180,000 square feet of Gross Floor Area (for a total build out of 600,000 square feet) within the Park provided the following are addressed:

- 1) In the event that a new or expanded project in Stage 3 has a Title 5 wastewater flow of greater than 15.7 gallons per day per 1,000 square feet of building or a total flow of 2,000 gallons per day, the FEDIC will require a denitrifying septic system for that project;
- 2) FEDIC will require the property owner and/or developer to provide to the CCC copies of building and septic permit applications (together with Title 5 flow information) at the same time as such are submitted to the Town of Falmouth unless such information has been submitted in the most recent six month report as identified in Section G of this Agreement;
- 3) FEDIC will provide to the CCC copies of approved building, occupancy and septic system permits (together with Title 5 flow information) at the same time as such are issued by the Town of Falmouth;
- 4) FEDIC will continue to implement a low water and reduced fertilizer use landscaping restriction for all future development in the Park; and
- 5) FEDIC will implement a TDM Plan consistent with Section B of this Agreement, Stage 2A, item 6.
- 6) The FEDIC agrees, where feasible, to incorporate employee amenities into all development that is part of Stage 3, where such amenities are designed to reduce the need for travel during the work day. Examples of such amenities include ATMs, childcare facilities, snack bars, news stands, neighborhood stores and cafeterias.

Upon completion of all of these requirements, and prior to issuance of a Certificate of Use and Occupancy for any development in Stage 3, the FEDIC may seek a Final Certificate of Compliance from the CCC for Stage 3 (hereinafter "Stage 3 Final Certificate"). The CCC shall have 30 calendar days from the receipt of this request to complete a compliance review. Should any item remain incomplete, the CCC will notify the FEDIC at the following addresses - *Town Administrator/Selectmen's Office, 59 Town Hall Square, Falmouth, MA 02540 and Care of Attorney Patrick Butler, Nutter, McClennen & Fish, 1513 Lyannough Road, P.O. Box 1630, Hyannis, MA 02601-1630* - of those items to be completed. The FEDIC may subsequently seek a Stage 3 Final Certificate of Compliance once these identified items are complete. The CCC shall issue a Stage 3 Final Certificate of Compliance indicating compliance with the

requirements of Stage 3 of this Agreement once the CCC determines that the above requirements have been completed to its satisfaction.

C. Land Use/Exclusions from this Agreement

The purpose of this Agreement is to foster growth of low-impact, high technology industries within the Park. The following uses are excluded from the terms of this Agreement and shall require DRI review pursuant to the Act and Chapter A of the CCC Enabling Regulations Governing Developments of Regional Impact, Barnstable County Ordinance 90-12 (as amended):

(i) commercial retail/wholesale distribution centers, warehouses, outlets, stores or related uses any of which generate over 350 vehicle trips per day (vtpd). The determination of whether such uses generate over 350 vtpd shall be made by the CCC transportation staff based upon the most recent edition of the Institute of Transportation Engineers *Trip Generation* Manual. The CCC agrees to provide vtpd information to the FEDIC and local officials within 30 calendar days of receipt of a written request. The FEDIC agrees to forward development plans concerning such uses to the CCC for an informal determination of whether a proposed development is or is not excluded from mandatory DRI review under this Agreement; and

(ii) solid waste recycling and composting facilities and/or transfer stations.

If the CCC determines that a proposed development meets the standards and criteria for DRIs adopted pursuant to the Act and is excluded from this Agreement as set forth above, then the CCC may review such development as a DRI notwithstanding the fact that the development has not been referred by a municipal agency or official.

D. Open Space

Forty percent (40%) of the upland area of every lot, excluding wetlands, shall be maintained as open space. Said open space may include landscaped areas designed to screen and buffer the development. Within this area, the maximum amount of natural vegetation shall be maintained. Of said forty percent, thirty percent (12% of the entire lot) shall remain in an undisturbed, natural state.

E. Solid Waste

Construction and demolition debris from development and redevelopment within the Park shall be removed from construction sites and reused or recycled to the maximum extent possible.

Development within the Park shall allocate adequate storage space for interim storage of materials to be recycled.

F. Hazardous Waste and Materials

The storage, transport, and usage of all toxic and hazardous waste materials and wastes at the Park shall be subject to all federal and state statutes and regulations,

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and/or county and local bylaws and regulations as may now or in the future be designated and/or defined by such federal and state statutes and regulations and/or county and local bylaws and regulations.

Occupants that use, store, generate, treat, or dispose of hazardous waste or hazardous materials shall comply with the following restrictions:

1. A designated hazardous waste storage area shall be provided which is physically separated from the hazardous materials storage area by a wall, berm or similar means; and
2. Hazardous waste and/or materials shall be stored in an indoor area or in an enclosed, covered shed with containment that has a capacity of 110% of the volume of the largest container(s) of hazardous waste and/or materials stored on the site. Such containment may be provided by means of a pan, bermed area or similar enclosed, impermeable surface area and shall have a sealed impervious concrete floor without floor drains. The sealer should extend 6 inches up the walls and containment shall be provided as outlined above; and
3. Incompatible waste types (corrosive, ignitable, reactive, toxic) shall not be stored in close proximity to one another; and
4. The FEDIC shall continue to implement the Hazardous Waste and Materials Management Plan and a Spill Response Plan developed by the FEDIC and the CCC dated March, 1994. The FEDIC shall continue to distribute a copy of these Plans to Park Occupants.

G. Reporting and Monitoring

The Parties to this Agreement have agreed that the following reporting and monitoring protocols shall be established:

The FEDIC shall complete within ninety (90) days following the date of this Agreement the Status Information Matrix (hereinafter "Matrix") attached hereto as Exhibit A. The information provided on the Matrix shall be presented to the CCC staff at a meeting and shall be verified by CCC staff within sixty (60) days following submission by the FEDIC. In the event that additional information is required by the CCC staff to perform its verification, the FEDIC shall provide such information within ten (10) business days of a written request by CCC staff.

Commencing six (6) months from the date of this Agreement and every six (6) months thereafter, the FEDIC shall submit a written status report (hereinafter "six month report"), which report shall update the CCC on the status of development within the Park. An updated Matrix shall be submitted as part of that report. The FEDIC may, in its discretion, file reports more frequently with the CCC.

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Within thirty (30) days following the submission of the six month report to the CCC, representatives of the FEDIC and the CCC staff shall meet to discuss the six month report, and the FEDIC shall tender a summary report at a full meeting of the CCC to be scheduled within thirty (30) days following the meeting between the FEDIC and CCC staff to discuss the six month report. If no summary report is submitted, the most recent six month report shall be provided to the CCC members as the FEDIC's summary report.

The FEDIC and CCC staff shall, at least annually, meet with representatives of the Town of Falmouth to review the six month reports and updated Matrix compiled to date.

For the purposes of calculating the amount of square footage under each Stage of this Agreement, the issuance of a Building Permit shall determine the amount of Gross Floor Area authorized under this Agreement.

Upon issuance of a Stage 3 Final Certificate of Compliance by the CCC for development in Stage 3, the FEDIC shall, within ninety (90) days, provide the CCC staff with an updated Matrix and an updated six month report. Upon receipt by the CCC staff of the updated Matrix and six month report, the FEDIC shall no longer be required to submit a further Status Information Matrix or six month report.

H. Applicability

This Agreement shall apply to all development within the Park including but not limited to new construction, additions, auxiliary buildings, alterations, changes in use, and modifications.

Upon issuance of a Stage 3 Final Certificate of Compliance by the CCC for development in Stage 3, any development beyond the Park build out of 600,000 square feet shall require DRI review pursuant to the Act and Chapter A of the CCC *Enabling Regulations Governing Developments of Regional Impact*, Barnstable County Ordinance 90-12 (as amended).

I. Successors

FEDIC shall ensure that its successors and assigns, and as a condition of their tenancy, Park tenants and their respective successors and assigns, shall agree to design, construct, maintain and operate their facilities in accordance with this Agreement. These restrictions shall run with the land.

J. Discretionary Referrals

In the event any development within the Park is referred to the CCC as a discretionary referral pursuant to Section 12(e) of the Act, the CCC or its designee shall hold a public meeting to consider such referral and may, if such development falls under the exclusions provided by Section C or Section K of this Agreement, vote to accept jurisdiction to review such development as a DRI.

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K. Noncompliance

Noncompliance with the terms and conditions of this Agreement by the FEDIC shall result in a termination of the agreement and all Developments which meet or exceed the Standards and Criteria set forth in Chapter A, the CCC *Enabling Regulations Governing Review of Developments of Regional Impact*, Barnstable County Ordinance 90-12 (as amended), or Standards and Criteria adopted subsequent to this agreement pursuant to Section 12(a) of the Act, shall be referred to the CCC for DRI review. Noncompliance with the terms and conditions of this Agreement by an Occupant shall result in a termination of this Agreement with respect to the non-complying Occupant and/or property and all developments proposed by said Occupant within the Park and/or all development regarding a non-complying lot or lots which meet or exceed the Standards and Criteria set forth in Chapter A, the CCC *Enabling Regulations Governing Review of Developments of Regional Impact*, Barnstable County Ordinance 90-12 (as amended), or Standards and Criteria adopted subsequent to this agreement pursuant to Section 12(a) of the Act, shall require DRI review. The CCC may issue and may record at the Barnstable County Registry of Deeds and/or Land Court a Certificate of Compliance for one or more lots, as it deems appropriate.

L. Waiver

The waiver by any Party of a breach or violation of any provision of this Agreement shall not operate as or be construed to be a waiver of any subsequent breach thereof.

M. Validity

The invalidity or unenforceability of any provision or clause of this Agreement shall not in any way affect the validity or enforceability of any other provision or clause of this Agreement.

N. Authority

This Agreement is adopted under the authority of Section 14 of the Act and Barnstable County Ordinance 92-1 and shall be governed by the laws of Massachusetts.

O. Modification or Amendments

This Agreement sets forth the entire agreement of the Parties. Any modifications or amendments hereto must be in writing, signed by both parties and specifically reference this Agreement. Any modifications or amendments hereto must be made in compliance with Section 8 of Barnstable County Ordinance 92-1, CCC *Regulations Enabling Development Agreements*.

P. Time Limit on the Development Agreement

This Agreement shall be valid for a period of 12 years from the date of execution and may be extended for a period of not more than 12 years by mutual agreement of the Parties.

Q. Recording of the Development Agreement

A fully executed version of this Agreement shall be recorded with the Barnstable County

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Registry of Deeds by the CCC. In addition, the FEDIC shall cause each new Occupant to attach a copy of this Agreement, as a deed restriction, to its deed(s) upon recording same with the Barnstable County Registry of Deeds and/or Land Court.

R. Definitions

The definitions contained in the Act and the RPP shall apply to this Agreement. For the purposes of this Agreement, the following terms shall have the following definitions:

Act - Cape Cod Commission Act, Chapter 716 of the Acts of 1989, as amended.

DRI - Development of Regional Impact.

Gross Floor Area - The gross floor area of a building is the sum (in square feet) of the area at each floor level, including but not limited to cellars, basements, mezzanines, penthouses, corridors, lobbies, stores, and offices, that are included within the principal outside faces of exterior walls, not including architectural setbacks or projections. Included are all stories or areas that have floor surfaces with clear standing head room (6 feet, 6 inches, minimum) regardless of their use. Also included are enclosed storage buildings. Where a ground level area, or part thereof, within the principal outside faces of the exterior walls is left unenclosed, the gross floor area of the unenclosed portion is said to be considered as a part of the overall square footage of the building. All unroofed areas are to be excluded from the area calculations.

Hazardous Waste and Materials - any toxic and/or hazardous waste or substance as defined by federal or state statutes and regulations and/or county or local ordinance, bylaw and/or regulation.

Occupant - A person or entity having an interest in property located within the Park, including but not limited to lot owners and Park tenants.

Park - The Falmouth Technology Park.

Party - A person or entity that is a signatory to this Agreement.

RFP- *Request for Quotations/Proposals: Falmouth Technology Park- Traffic Impact Study*, a copy of which is attached to this Agreement (as part of Attachment B), and is incorporated by reference.

RPP - The Cape Cod Regional Policy Plan, Barnstable County Ordinance 91-6.

S. Local Review

Nothing in this Agreement shall be construed to limit or in any way restrict the authority of the Town of Falmouth or its officers, agencies or agents to regulate development within the Park.

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SIGNATURE PAGE

Executed by the authorized representatives of the Cape Cod Commission and the Falmouth Economic Development Industrial Corporation, on this 21st day of February, 2006.

For the Cape Cod Commission

[Signature]
VICE Chair, Cape Cod Commission

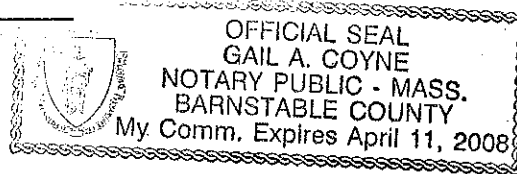
21 FEB 06
Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss February 21, 2006

Before me, the undersigned notary public, personally appeared W. Bradford Cowell in his capacity as ^{via} Chair of the Cape Cod Commission, whose name is signed on the preceding document, and such person acknowledged to me that he signed such document voluntarily for its stated purpose. The identity of such person was proved to me through satisfactory evidence of identification, which was personal knowledge of the undersigned.

[Signature]
Notary Public
My Commission Expires:



For the Falmouth Economic Development Industrial Corporation

[Signature]
Harlyn O. Halvorson, Chair

2/16/06
Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss February 16, 2006

Before me, the undersigned notary public, personally appeared Harlyn O. Halvorson in his capacity as Chair of the Falmouth Economic Development Industrial Corporation, whose name is signed on the preceding document, and such person acknowledged to me that he signed such document voluntarily for its stated purpose. The identity of such person was proved to me through satisfactory evidence of identification, which was ☐ photographic identification with signature issued by a federal or state governmental agency, ☐ oath or affirmation of a credible witness, or ☐ personal knowledge of the undersigned.

[Signature]
Notary Public
My Commission Expires:

Robert J. Haller
Notary Public
My Commission Expires
April 10, 2009

Development Agreement
Falmouth Technology Park
Page 15 of 15 (not counting Attachments A & B, and Exhibit A)

PROTECTIVE COVENANTS

Falmouth Technology Park

Falmouth, Massachusetts

To insure the continuance of a compatible environment for primarily high technology industries to operate at the industrial park, to sustain a good business environment, to retain the integrity of the master plan for the technology park, and to insure that property values will be maintained or increased by suitable development and use, the following covenants have been established and are to be included in any deed running from the Town of Falmouth to the Town of Falmouth Economic Development and Industrial Corporation and in any deed from said corporation to third parties.

Permissible Land Use

1. In addition to all applicable codes, ordinances, bylaws and regulations of the Town of Falmouth, the Economic Development & Industrial Corporation (EDIC) will only approve those business activities that conform to the following criteria.
 - a. Plants for the manufacture, light fabrication, processing, conversion, alteration, finishing, assembly, wholesale distribution, and storage of products.
 - b. Research, experimental, or testing laboratories.
 - c. Administrative and office activities.
2. No parcel shall be used or occupied so as to create a hazardous, unsanitary, or objectionable condition affecting adjacent properties, whether through danger of fire or explosion, noise, vibration, dust, waste, smoke, fumes, odor, lighting, or any other cause.

Building Regulations

1. Minimum lot size, 80,000 square feet; minimum frontage on an approved way, 200 feet; maximum height of building, 35 feet; maximum percent of lot coverage, including accessory buildings, 30 percent; minimum percent of lot coverage, including accessory buildings, 5 percent; minimum setback dimensions from property lines to building line in feet as follows: front required minimum 100 feet; each side, 50 feet; rear required minimum, 40 feet.

The building line is defined as the outer face of the wall enclosing the building or supporting the roof. Gutters, cornices, roof overhang, steps, platforms, open porches, and balconies projecting not more than sixteen (16) feet would be permitted.

The maximum percent of lot coverage for combined building and paving shall be 65 percent. The area for the percent of lot coverage will be computed from the out-to-out dimensions of the foundations, porches, platforms, balconies, etc. Enclosed areas and accessory buildings such as pump houses, sheds, and garages would be included. Enclosed areas are computed from the out-to-out dimensions of the walls, or fences, or the centerline of screen planting. Paving areas are computed from the out-to-out dimensions of where the paving meets adjoining buildings or grass areas.

2. Ground within the setback areas, with the exception of walks and driveways, will be appropriately landscaped and shrubbed.

3. Storage of bulk materials, such as coal, wood pulp, etc. shall be completely within a building or other space completely enclosed with a solid floor and walls at least 12 feet high. Other outside storage of materials (either raw or manufactured), equipment, drums, transformers, etc., will be screened from the public view.

4. Fences, walls, or plantings used for screening purposes shall be located on the property line of any parcel being fenced. The size, materials, and location of such fences shall be subject to the prior approval of the Falmouth Fence Viewer.

5. All roads, drives, parking areas, and outdoor storage areas shall be paved. There shall not be more than two (2) access roads per 200 feet of frontage and with an aggregate width of entrances at the street line of 75 feet or less. These access roads and driveways shall be located not less than 30 feet from street lines when parallel to the street and not less than 15 feet from abutting property.

Design Guidelines

Note: In the case of conflict between the following guidelines and any applicable codes, ordinances, or regulations of the Town of Falmouth, or of the Commonwealth of Massachusetts, the more stringent restrictions shall take precedence.

1. Building design shall take advantage of the topography and shall reflect the character, scale, and purpose of the area of which it is a part. All buildings shall be designed with due consideration for existing and proposed neighboring structures. Exterior materials shall be permanent type, of good quality, and of either finished concrete, finished masonry, or masonry units such as stone veneer, face brick, structural facing tile, or ceramic tile; factory-assembled panel units with painted metal surfaces, glass or plastics; factory-painted, pre-formed metal siding and panel systems; wood when used for trim or in the form of factory finished weather-proof panels; or other aesthetic materials. Exterior lighting used to light doors, entrances, plazas, parking areas, and open spaces shall be located and shielded so as to prevent glare to adjacent properties. All buildings shall be designed with provisions for handicapped persons, enabling them to enter and travel about the building without undue obstruction.

2. Maintenance of buildings shall be sufficient to keep them in clean, safe, sanitary, and attractive condition. Suitable refuse storage and disposal facilities shall be provided, enclosed, and properly maintained.

Site Location

1. Overall arrangement of buildings, open spaces, parking and loading areas, and landscaping shall be designed to provide an attractive appearance and shall be developed as an integral part of an overall site design which facilitates the orderly circulation of traffic within the project. Vehicular access to a parcel shall be guided by the Internal Traffic Plan developed by site engineers. A parcel may only be subdivided with the consent of the Falmouth EDIC.

2. Landscaping shall be provided for all land not improved with buildings or pavement, unless the Falmouth EDIC approves the natural state of the land as acceptable in appearance. Roads, streets, service and parking areas, and open spaces shall be functionally landscaped as an integral part of a coordinated landscape design for the overall park area. Trees, shrubs, and other plantings shall be maintained in a growing and attractive condition. Plantings in all parking areas shall conform with the requirements of Section 5257 of the Falmouth Zoning Bylaws.

3. Screening shall be provided for utility appurtenances such as transformers and bottled gas tanks which are located at ground level, in the form of evergreen plantings or other landscaping. Outside storage is prohibited, if visible. Screening shall also be provided along open space boundaries and project area boundaries. Utility lines must be constructed underground.

Parking and Loading Standards

1. On-street parking is prohibited.

2. Off-street parking shall include a minimum of one automobile space for every 1.3 employees working on the largest shift, capable of expansion to one space for each 300 square feet of gross floor area. Such areas must be located to the side or rear of buildings and be safely and conveniently accessible to employees.

3. Employees and company parking areas shall be located not less than 60 feet from any street line and not less than 5 feet from abutting property on any lot on which a building is situated. A lot used exclusively for parking must have a grass strip not less than 5 feet wide on all sides, except that side which borders on a street, in which case the landscaped open space must be at least 60 feet wide.

4. Visitor and executive parking not to exceed a ratio of one (1) car per fifteen (15) feet of building frontage may be constructed at the main entrance to the building.

5. Loading spaces must be provided at a minimum of one space for the first 10,000 square feet of gross floor area and one space for the next 25,000 square feet of additional floor area. Other additional loading spaces shall be at the discretion of the company using the facility. Loading spaces must also be located to the side or rear of the building, in an area separate from the designated parking area. Loading space must be at least 12 feet wide and 50 feet long for each space.

6. Both parking and loading areas shall be serviced by an access driveway of at least 18 feet in width. Both areas shall be paved with asphalt and provided with adequate drainage. No parking will be permitted in the access driveway.

Sign Regulations

1. The size, style, construction, location, and installation of all signs must be approved by the Falmouth EDIC.

2. Signs shall be directly related to the principal use of the parcel upon which they are located, except for a small number of directional signs, and announcement signs for the park and its occupants located at major entrances to the park. All signs shall be a harmonious complement to the property on which they are located, and to the industrial park as a whole.

3. One free-standing sign of no more than 16 square feet

in area is permitted within the first 50 feet on each separate use parcel. Letters may not be over 12 inches in height. Additional signs may be attached flat against the wall of a building, provided that they do not exceed one square foot in area for each linear foot of horizontal length of facade on which they are mounted.

4. No moving signs, flashing signs, animated signs, signs with traveling lights, roof signs, billboards, or signs that interfere with traffic lights or signs will be permitted. Signs may not be painted on buildings. Beacons and flashing lights will only be permitted if their use is deemed necessary for public safety.

5. One unlighted, temporary sign of an owner, lessee, contractor, subcontractor, architect, or engineer may be erected during the period of construction only, and it shall not violate any of the above conditions governing free-standing signs.

Toxic and Hazardous Substances

The storage, transport, and usage of all toxic and hazardous substances and wastes at Falmouth Technology Park shall be subject to all federal and State statutes and regulations and/or local bylaws and regulations as may now or in the future be designated and/or defined by such federal and State statutes and regulations and/or local bylaws and regulations.

Water Usage

Prior to a land sale or lease commitment by the Falmouth EDIC to an occupant of the Falmouth Technology Park, all proposed uses shall be submitted for review by the Falmouth Board of Public Works for the purpose of establishing that the water supply requirements of the occupant can be accommodated by the Town water system.

Compliance

Compliance with these regulations shall initially be evident by a "Certificate of Compliance" issued by Falmouth EDIC, duly executed by the Chairman thereof in recordable form, indicating that the plans and specifications and uses of proposed building are in compliance with these covenants. Said corporation shall also have the obligation to enforce by court action if necessary future compliance during or after said buildings are constructed, or do or take any other action in this matter.

On request of the Economic Development and Industrial Corporation and the Board of Selectman,

FALMOUTH TECHNOLOGY PARK DEVELOPMENT AGREEMENT

ATTACHMENT B

Request for Quotations/Proposals, issued by the Falmouth Economic
Development and Industrial Corporation

and

Traffic Impact Study for the Falmouth Technology Park
by MS Transportation Systems
dated November 10, 2005

01/13/2006 13:41 0007337340

FALMOUTH Economic Development and Industrial Corporation

REQUEST FOR QUOTATIONS/PROPOSALS

FALMOUTH TECHNOLOGY PARK - TRAFFIC IMPACT STUDY FALMOUTH ECONOMIC DEVELOPMENT INDUSTRIAL CORPORATION FALMOUTH, MASSACHUSETTS

The Falmouth Economic Development Industrial Corporation (Falmouth EDIC) requests quotations/proposals from qualified consultants to prepare a Traffic Impact Study in the vicinity of the Falmouth Technology Park as detailed in the "Specifications for Services" contained herein. A final report will be completed after a draft review by the Falmouth EDIC, the Town of Falmouth, and the Cape Cod Commission.

Complete specifications and proposal requirements are attached.

Quotes/Proposals must be received no later than Monday, November 14, 2005, 10:00 A.M., in the manner and format as required in the Request for Quotations/Proposals. Quotes/Proposals are to be submitted to:

Falmouth EDIC
Attention: Heather Harper
Assistant Town Administrator
Town of Falmouth
59 Town Hall Square
Falmouth, MA 02540

Faxed Quotes/Proposals are to be submitted to:

Falmouth EDIC
Attention: Sharon Travers Gay
STG Consultant Services
Phone: 508-759-1294
Fax: 508-743-9410

The Falmouth EDIC shall award the contract under this procurement.

The Falmouth EDIC expressly reserves the right, in sole discretion of the awarding authority, to reject any and all bids, or to waive any informalities in the request for or response to proposals, if deemed in its best interest.

The Falmouth EDIC is an equal Opportunity Employer. Proposals from Disadvantaged/Woman Business enterprises are encouraged.

01/19/2006 13:41 0007057340

GENERAL SPECIFICATIONS

1. PREPARATION OF QUOTES/PROPOSALS

- A. Quote/Proposal procedure shall be in accordance with the provisions of Massachusetts General Laws Chapter 30B.

2. INTERPRETATIONS

- A. Requests for interpretation shall be in writing addressed to Sharon Travers Gay, STG Consultant Services, 17 Warren Road, Bourne, MA 02532 or faxed to 508-743-9410 to be given consideration and must be received by Wednesday, November 9, 2005, 1:00 P.M. Any and all such interpretations and any supplemental instructions will be in the form of written Addenda to the SPECIFICATIONS (at the respective addresses furnished for such purposes). Such Addenda will be faxed no later than 4:00 P.M., November 10, 2005.
- B. Failure of any proposer to receive any such Addenda shall not relieve such proposer from any obligation under his/ her Quote/Proposal as submitted. All Addenda so issued shall become part of the SPECIFICATIONS. At the same time of the opening of the Quote/Proposals, each proposer will be presumed to have read and to be thoroughly familiar with the Addenda.
- C. SPECIFICATIONS (including all Addenda). The failure or omission of any proposer to examine any form, instrument, or document shall in no way relieve any proposer from any obligation with respect to his/her quote/proposal.

3. SUBMISSION OF QUOTES/PROPOSALS

- A. The proposer shall submit one original of the quote/proposal.
- B. The proposer shall submit the quote/proposal with a letter of transmittal signed by an authorized official of the firm. If the Quote/Proposal is mailed, the proposer shall address it as follows:

STG Consultant Services
Sharon Travers Gay
17 Warren Road
Bourne, MA 02532

ATTN: FALMOUTH EDIC TRAFFIC STUDY QUOTE/PROPOSAL

- C. If the quote/proposal is faxed, the proposer shall address it and fax it as follows:

FALMOUTH EDIC TRAFFIC STUDY QUOTE/PROPOSAL

Attention: Sharon Travers Gay
STG Consultant Services

Phone: 508-759-1294 Fax: 508-743-9410

4. WITHDRAWALS OR MODIFICATION OF QUOTES/PROPOSALS

- A. A quote/proposal may be withdrawn by written request, providing that such request is received prior to time established herein for the receipt of Quote/Proposals.
- B. Modifications to quotes/proposals may be submitted prior to the date and time specified for the receipt of Quote/Proposals.

C. An original plus of any modifications must be submitted together with a letter of transmittal signed by an authorized official of the firm.

5. EVALUATION OF QUOTES/PROPOSALS

B. The contract will be awarded to the responsible person/firm offering the needed quality of service at the lowest quotation. The Falmouth EDIC reserves the right, upon basis of such evaluations, to reject the Quote/Proposal of any and all proposers who do not, in its estimation, pass under such evaluations, or to select a proposer other than the apparent lowest cost proposer if the investigations indicate that such action is in its best interest.

The Falmouth EDIC reserves the right to reject any or all quotes/proposals if it is deemed in the public interest.

A. The Falmouth EDIC is exempt from paying any otherwise applicable state and federal sales taxes.

SPECIFICATIONS FOR SERVICES

1.1: Field Visit

1.2: Data Collection

1. Sam Turner Road/Sandwich Road/John Parker Road
2. Route 28A/Thomas Landers Road
3. Route 28 Ramps/Thomas Landers Road
4. Technology Park Drive/Thomas Landers Road
5. Research Road/Thomas Landers Road
6. Blacksmith Shop Road/Thomas Landers Road

These traffic counts will be taken mid-week during the traditional commuter peak periods from 7:00 to 9:00 AM and 4:00 to 6:00 PM. Traffic volumes will be adjusted to average summer weekday conditions based on seasonal adjustment factors supplied by the Cape Cod Commission.

Useable traffic data (pertaining to Thomas Landers Rd/Route 28 and Route 28A) from the "Supplemental Environmental Impact Report/Development of Regional Impact/Town of Mashpee Special Permit Application/Traffic Impact and Access Study Technical Appendix Volume I of V" currently exists and is on file at the Cape Cod Commission. This traffic data was developed for the "Proposed South Cape Village Community Retail Center EOE No. 10966" and is dated October 2003.

Also, Traffic Counts were performed at Technology Park Drive and Research Road during July 2005 and August 2005. This data is available from the Falmouth EDIC.

1.3: Level of Service Analysis

Existing level of service analysis will be conducted at the six study area intersections using the data collected in Task 1.2 and any available supplemental traffic data. Intersection level-of-service will be conducted for the peak morning and evening hour for average summer weekday conditions.

1.4: Summary of Accident Data

The Consultant will conduct a review of the most recently available three years of accident data within the study area. Data may be compiled and sent to the Consultant by the Falmouth Police Department; if unavailable, Massachusetts Registry of Motor Vehicle records may be used. The Consultant will provide a summary of accident data findings and analysis consistent with Cape Cod Commission Traffic Study Guidelines. These guidelines are available at:

www.capecodcommission.org/regulatory/TransTechBulletin2003.pdf

2.0: Projection of Future Conditions: Phase III

Remaining Development (Currently Phase II of Falmouth Technology Park is complete 300,000 square feet. Phase III or remaining development is an additional 300,000 square feet of development for a total of 600,000 square feet)

2.1: Background Traffic Growth Assessment

The Consultant will apply an annual traffic growth rate of 1.4% per year, which will be applied to the existing traffic data. This growth rate is a conservative estimate based on a compilation of local historical traffic counts. In order to develop the No-Build networks, these volumes will be carried out to the year 2015, which is the estimated time of completion for the Phase III development, the full build scenario. In addition, any other specific development in the area will be estimated and added to the base traffic network.

Existing Conditions (Phase I and Phase II - includes the current level of development which is about 300,00 square feet)

The year 2015 should have the following scenarios:

- No-Build (No Technology Park traffic, does include background traffic growth)
- Phase I and Phase II Technology Park (Traffic generated by the current level of development added to the No-Build)
- Full Build (All of Phases I, II, and III development which will total 600,000 square feet added to the No-Build)
- Full Build w/Mitigation (Same traffic as Full Build, includes changes to roadways & intersections)

2.2.0: Full Build Analysis

2.2.1: Full Build Trip Generation Assessment

The Consultant will calculate the estimated daily and peak hour trip generation associated with the additional 300,000 square feet of development planned as part of Phase III-Remaining Development of the Falmouth Technology Park. Trip generation estimates will be made using standard rates and equations, as appropriate. It is anticipated that the Land Use Code 130 "Industrial Park" of the Institute and Transportation Engineers' Trip Generation Manual will be used to make these trip generation estimates.

2.2.2: Full Build Traffic Impact Assessment

The peak hour trips generated by Phase II of the Falmouth Technology Park will be added to the No-Build traffic network to determine the "Year 2015 Build" condition. Peak hour intersection level-of-service analysis will be conducted for the No-Build, Phase I and Phase II Build (300,000 square feet of development), and year 2015 Build traffic volumes to assess the impact of the project. A summary of these impacts will be provided.

3.0: Meeting

3.1 Meetings

The Consultant will attend two (2) meetings during the course of this study. The agenda and dates for these meetings will be determined as needed. The Consultant is available to attend additional meetings as needed at an additional cost.

4.0: Products

4.1: Draft and Final Reports

The Consultant will produce a draft report of the study findings for review by the Town of Falmouth, the Falmouth EDIC, and the Cape Cod Commission. A draft report will be submitted six weeks from date of contract award (estimated date of contract award is November 14, 2005). Upon receipt of comments from the above parties, the Consultant will produce a final study report by March 1, 2006.

5.0: Mitigation Measures

5.1: Identification of Off-Site Improvements

Once the traffic impacts of the proposed project are identified, the Consultant will identify potential intersection mitigation that will address the project's impacts. Identification of potential intersection mitigation will be in the form of a drawings and/or description of the necessary improvements. Potential mitigation must be consistent with the Regional Policy Plan. No engineering drawings or cost estimates will be provided.

Quote/Proposals submitted should list key staff members to be assigned, provide a resume of their qualifications, list references for current and recently similar projects, and include a fee Quote/Proposal.

All documents prepared for the project shall remain the property of the Falmouth EDIC. Selection shall be subject to additional discussions and/or negotiations based on Quote/Proposals received.

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REQUIRED ELEMENTS OF A QUOTE/PROPOSAL PACKAGE

1. Statement of Qualifications:

Contained in the Statement of Qualifications shall be at least the following:

- A. Qualifications of professionals to be utilized in the undertaking of agreed upon services, particularly successful experience in conducting traffic impact studies;
- B. Evidence of registration as a licensed, engineer or tradesman in an appropriate profession or trade for professional staff;
- C. Three relevant references for key professionals involved, for the principal firm, and for all professional subcontractors to be used, including: (1) Project name and location, (2) Owner, name, address, contact person, and telephone number, and (3) Project description and budget;

2. Statement of Proposed Level Of Services And Project Approach:

The engineer will submit a statement containing at least the following:

- A. Statement of the approach to the project tasks and description of services to be required;
- B. Staffing plan and statement of commitment to project;
- C. Scheduling plan, and statement of commitment to an expeditious process. Acknowledgement of the proposed project schedule and ability to meet schedule requirements, or an explanation as to why departure from the above schedule is needed.

3. Certificate of Tax Compliance and Certificate of Non-Collusion (sample form is attached).

CERTIFICATE OF NON-COLLUSION

The undersigned certifies under penalties of perjury that this quote has been made and submitted in good faith and without collusion or fraud with any other person. As used in this certification, the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals..

(Signature of individual submitting
quote/proposal)

(Name of Business)

TAX COMPLIANCE CERTIFICATION

Pursuant to M.G.L. c. 62C, §49A, I certify under the penalties of perjury that, to the best of my knowledge and belief, I am in compliance with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

(Signature of individual submitting
Quote/Proposal)

(Name of Business)

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PRICE QUOTE/PROPOSAL FORM

To the Falmouth EDIC:

The undersigned proposes to furnish Traffic Impact Study consulting services for the complete project at the contracted price specified below:

The proposed contract price is _____ Dollars.
(\$)

The undersigned certifies under the penalties of perjury that this Quote/Proposal has been submitted and made in good faith and without collusion or fraud with any other person. As used in this section, the word "person" shall mean any natural person, joint venture, partnership, corporation, or other business or legal entity.

Date _____

By _____

(Name/Title of person signing Quote/Proposal)

(Company)

(Business Address)

(City, State, Zip Code)

FALMOUTH Economic Development and Industrial Corporation

EDIC Falmouth Town Hall,
c/o Administrator / Selectman Office,
Falmouth, MA 02540
Telephone (508) 548-7611

Chairman
Harlyn O. Halvorsen
Tel (508) 548-1030
hhalvors@falmleda

Vice-chair
William E. McKeon
(508) 548-2566
wmckeon@wholeda

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Assist. Town Admin.
Heather B. Harper
Tel (508) 548-7611x323
hbharper@town.falmouth.ma.us

Recording Secretary
Linda J. Wells
Tel (508) 457-9509
Lws@ars.usda.gov

Harding Realty Corp.
John Harding
Tel (508) 563-9777
jharding@capecod.com

Consultant
Sharon Travers Gay
Tel (508) 759-1294
stgcons@capecod.net

November 30, 2005

RE: Falmouth Technology Park - Traffic Impact Study

William Scully
MS Transportation Systems, Inc.
P.O. Box 967
Framingham, MA 01701

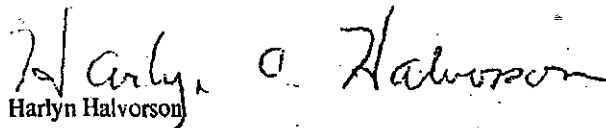
Dear Mr. Scully:

This is to inform you that MS Transportation Systems, Inc. has been awarded the contract to prepare a Traffic Impact Study in the vicinity of the Falmouth Technology Park as detailed in the Request for Quotation/Proposals. This award was based on review and evaluation of the information provided in your Proposal dated November 10, 2005.

As discussed with Sharon Gay, consultant to the Falmouth EDIC, you are requested to proceed with the Traffic Impact Study immediately. Ms. Gay and Mr. John Harding will begin assembling and forwarding the information you requested. We will draft a contract and forward it to you as soon as possible.

We look forward to working with you and completing our project in a timely and effective manner.

Sincerely,


Harlyn Halvorsen
Chairman
Falmouth EDIC

Cc: STG

Proposal/Qualifications

***Traffic Impact Study
Falmouth Technology Park***

Submitted To:

Falmouth EDIC

MS Transportation Systems, Inc.

November 10, 2005

MS Transportation Systems, Inc.
Consulting Engineers and Planners

November 11, 2005

Ref: P25081

Falmouth EDIC
c/o Ms. Sharon Travers Gray
STG Consultant Services

Re: Scope of Work/Transportation Consulting Services
Falmouth Technology Park, Traffic Impact Study

Dear Ms. Gray:

As requested, I am pleased to submit this scope of work and contract for providing transportation consulting services related to the proposed project related to the expansion of the Falmouth Technology Park in Falmouth. The scope of work details the tasks that will result in the analysis needed for meeting the Town's permit requirements. It follows the information contained in the RFP.

As you may be aware, MS Transportation Systems is a regional transportation planning and engineering firm doing business for nearly twenty years. While located in Framingham approximately one third of our work is conducted on the Cape. A sample of our Cape projects include studies for the BOCH Center for the Performing Arts in Mashpee, the Wellfleet Harbor Actors Theater in Wellfleet, the Star Market in Harwich and Skaket Plaza Expansion in Orleans all of which were required to go through the Cape Cod Commission review process as well as receive local approvals. We also conducted traffic impact and access planning studies for the Barnstable Municipal Airport Terminal project and the Cape Cod RTA Intermodal Center in Hyannis as well as the long range transportation plans for Barnstable, Yarmouth and Harwich. A number of transportation design projects have also been completed with construction completed or underway for many of them.

Our scope provides for the basic traffic study in Phase 1. Meetings are covered in Phase 2 needed and as requested. Please countersign both copies of this agreement and return the original to our office. As indicated in the RFP, we understand the critical time schedule and will be able to complete the study within six (6) weeks of the award. I will be the lead transportation engineer for the project with staff assisting me on various subtasks.

If you have any questions, do not hesitate to call me at (508) 620-2832. We look forward to working with you on this project.

Very truly yours,
MS TRANSPORTATION SYSTEMS, INC.


William J. Scally, P.E.

WJS/dx

Enclosure

Accepted By:
FALMOUTH EDIC

Name

Title

Date

SCOPE OF WORK

PHASE I - PREPARATION OF A TRAFFIC IMPACT & ACCESS STUDY

This Phase will include all research and coordination necessary to prepare a detailed traffic impact & access study for the proposed development project for your use in submission to the Town and the Cape Cod Commission as part of the permit application. This Phase will consist of the following work program:

- Research previous traffic counts from sources including previous studies completed for past proposals and current projects in the area, the Regional Planning Agency, State's Highway Department, and/or Town. The South Cape study will be reviewed and used as appropriate.
- Field Reconnaissance - Site visits will be completed to update and verify current geometric and operating information on the roadways serving the project and assess feasibility possible improvements. For this analysis, the proposed study locations will include:
 - Thomas Landers Road at Route 28A
 - Thomas Landers Road at Route 28
 - Thomas Landers Road at Research Drive
 - Thomas Landers Road at Technology Park Drive
 - Thomas Landers Road at Blacksmith Shop Road
 - Sam Turner Road at Sandwich Road
- Data Collection

As indicated in the RFP, a series of new traffic counts will be needed. However, according to the RFP, there is adequate data available from the 2003 South Cape Study and the 2005 FEDIC counts that can be used in this effort. Accordingly, new turning movement counts will be conducted at Thomas Landers Road at Blacksmith Shop Road and Sandwich Road at Sam Turner Road from 7:00AM-9:00AM and 4:00PM-6:00PM. In addition, an automatic traffic recorder (ATR) counts are proposed to be conducted for a 24-hour period on Thomas Landers Road east and west of the project site.
- Accident history will be summarized for the study locations based on the most recent three-(3) years of data provided in the MassHighway data base unless the data is provided by the Falmouth Police Department where appropriate, crash rates will be calculated.
- Base Traffic Networks - It is currently anticipated that the no-build networks will be refined for a ten (10) year (2015) future condition. Developing the future conditions will require research into site specific developments that could affect the study area as well as background growth. The 1.4% growth rate indicated in the RFP will be used. Networks

will be developed for existing, future No-Build, future Build Phases I/II and future Build Phase III. Networks will be developed for average summer conditions.

- Site Generated Traffic

- Estimates of project traffic will be prepared based on guidelines of the Institute of Transportation Engineers. Trip assignment will consider current patterns, population distribution and the 2000 census work trip data and the past study forecasts.

- Analysis

- A volume analysis will be completed with a comparison of No-Build and Build conditions.
- A capacity and level of service analysis in accordance with procedures outlined in the Highway Capacity Manual will be performed at the key intersections noted above to identify existing and future roadway operating conditions and the level of project impact. Future conditions analysis will include examining the No-Build, Phase I/II and Phase III scenarios.

- Conclusions/Mitigation

- Based on the results of the study, conclusions will be made as to the proposed access related to the site and to the project. Recommended actions, which are intended to reduce the project's impact, help meet the needs of the project and improve travel operating conditions will be outlined if appropriate. Requirements or potential modification for the site drive to safely accommodate the site related traffic would be outlined if determined appropriate.

- Documentation

- A draft report will be prepared and a copy submitted for review. The report will detail both verbally and graphically the studies procedures, data, analysis, and recommendations. Following CLIENT review, the report will be finalized.

- Meeting

- This phase includes budget for attending two meetings to be determined. Additional meetings will come under Phase 2 services.

PHASE 2 - ADDITIONAL SERVICES/MEETINGS

Additional Services

MSTS will be available to perform additional services beyond those, outlined herein, as required. These services may include: additional studies, liaison or negotiations with government officials, design services and others. Additional services will be performed at your discretion and direction only.

Meetings

In addition you may wish to have a member of our staff present our report and findings at additional Public Hearings and other meetings with the local boards or project meetings with members of the project team beyond the two assumed as part of the base contract. Since our participation at these Meetings is discretionary on your part, they are included as a separate phase of the Contract in order to be as flexible as possible to meet your needs and desires.

COMPENSATION

The fee for the Scope of Services outlined is as follows:

PHASE 1 - Fixed Fee of \$8,450.00.

PHASE 2 - Hourly time and expenses as necessary and agreed upon.

For Phase 2, time charges will be billed in accordance with the hourly billing rates included in Attachment #2, Terms and Conditions.

Expenses, that may include but not be limited to travel, lodging, printing and production, and postage, will be billed separately at cost for Phase 2. For budgeting purposes, direct expenses typically range from 7 to 10% of the labor fee.

This proposal is valid if executed within 45 days of the date signed by MS Transportation Systems, Inc.

MS Transportation Systems, Inc.**Standard Billing Rates (effective from January 1, 2005 thru December 31, 2005)**

| <u>Classification</u> | <u>Hourly Rate</u> |
|------------------------|--------------------|
| Principal | \$165.00 |
| Associate | \$130.00 |
| Project Manager | \$110.00 |
| Sr. Engineer/Planner | \$100.00 |
| Engineer/Planner | \$95.00 |
| Drafting | \$70.00 |
| Word Proc./Secretarial | \$70.00 |
| Technician | \$70.00 |
| Court Testimony | \$180.00 |
| Court Waiting | \$150.00 |

Expenses

Expenses will be billed at their actual cost and will include travel and subsistence, printing, subcontractors and other miscellaneous expenses. A 15% administrative fee will be added to printing, material and subcontractor costs. Automobile mileage will be billed at a rate of 40.5 cents per mile. Charges for automatic traffic recorder rentals are billed at \$50 per count day.

Proposed Staffing Plan

The key staff from the firm for this work will be William J. Scully, P.E. and Daniel A. Dumais, E.I.T.

William J. Scully, P.E. as the lead transportation engineer for the project brings more than twenty eight (28) years experience in conducting or managing transportation planning and traffic engineering projects participating in more than 1,000 projects. His recent projects on the Cape have included the Barnstable Municipal Airport, Wellfleet Harbor Actors Theater, and Skaket Plaza in Orleans. Projects include long range plans, site feasibility studies, traffic calming projects and access management plans. He has a BSCE and MSCE in Civil Engineering/Transportation from the University of Massachusetts at Amherst. A registered Professional Engineer, he is also a member of the ITE, BSCES and TRB and has published a number of technical papers related to transportation planning. Mr. Scully will be the project manager and day to day contact for this project.

He will be assisted by *Daniel A. Dumais, E.I.T.* a transportation engineer in the firm with more than four (4) years experienced in conducting traffic studies for land development projects and intersection safety studies. Mr. Dumais also has extensive computer knowledge in traffic analysis packages, CAD and GIS software, statistical analysis packages and database design software. Mr. Dumais has completed research and attended training courses and seminars on traffic calming, bicycle accommodation and ADA compliance as well. His recent projects include completing the transportation component of the Agawam 418 Plan. Completed a traffic analysis for Orchard Hill Park (>600,000 sf mixed use development) and safety studies for several locations throughout the State.

Schedule Plan

We understand the schedule needs to be expeditious being submitted six (6) weeks from the project start. Our traffic impact studies typically require four (4) to six (6) weeks. Although we are entering the holiday season, there are only two study locations that need new data collection. This allows for the six (6) weeks schedule to be adhered to. Upon notification of the award on November 14, 2005 we are prepared to immediately initiate the project and schedule data collection for prior to Thanksgiving. At the risk of being presumptuous, we have already scheduled the data collection.

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CERTIFICATE OF NON-COLLUSION

The undersigned certifies under penalties of perjury that this quote has been made and submitted in good faith and without collusion or fraud with any other person. As used in this certification, the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals.

Dennis M. Resnick
(Signature of individual submitting
quote/proposal)

MS Transportation Systems, Inc.
(Name of Business)

TAX COMPLIANCE CERTIFICATION

Pursuant to M.G.L. c. 62C, §49A, I certify under the penalties of perjury that, to the best of my knowledge and belief, I am in compliance with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

Dennis M. Resnick
(Signature of individual submitting
Quote/Proposal)

MS Transportation Systems, Inc.
(Name of Business)

PRICE QUOTE/PROPOSAL FORM

To the Falmouth EDIC:

The undersigned proposes to furnish Traffic Impact Study consulting services for the complete project at the contracted price specified below:

The proposed contract price is Eight thousand four hundred fifty Dollars
(58,450)

The undersigned certifies under the penalties of perjury that this Quote/Proposal has been submitted and made in good faith and without collusion or fraud with any other person. As used in this section, the word "person" shall mean any natural person, joint venture, partnership, corporation, or other business or legal entity.

Date 11/16/95

By

William J. Scully

William J. Scully, PE
(Name/Title of person signing Quote/Proposal)

MS Transportation Systems, Inc.
(Company)

PO Box 967, 300 Howard Street
(Business Address)

Framingham, MA 01701
(City, State, Zip Code)

| Map+Parcel ID | Lot # | Address | Owner of Record | Occupant | Acreage | Site Plan/ Area/ Date |
|----------------|-------|---------------------------|----------------------------------|------------------------|---------|--------------------------|
| 15 04 027 A020 | 20 | 33 Technology Park Drive | Distasi, Micheal | Accurate Plastics | | |
| 15 04 027A021 | 21 | 64 Technology Park Drive | Falmouth EDIC | (old water tank) | | |
| 15 04 027A022 | 22 | 82 Technology Park Drive | Webb, Douglas Chester | Webb Research | | |
| 15 04 027A023 | 23 | 100 Technology Park Drive | Webb, Douglas Chester | (vacant land) | | |
| 15.04 027A027 | 27 | 81 Technology Park Drive | Woods Hole Land Holdings LLC | Woods Hole Group | | |
| 15 04 027A029 | 29 | 35 Technology Park Drive | Falmouth Publishing Company Inc. | Falmouth Publishing | | |
| 15 04 027A031 | 31 | 59 Technology Park Drive | Phen, Chi M Trustee | (empty building) | | |
| 15 04 027A062 | 62 | 28 Benard E. Saint Jean | Town of Falmouth | (new water tank) | | |
| 15 04 027A072 | 72 | 0 Bernard E. Saint Jean | MBL | (empty lot) | | |
| 15 04 027A073 | 73 | 25 Bernard E. Saint Jean | MBL/NOAA | MBL/NOAA | | |
| 15 04 027A076 | 76 | 19 Research Rd. | Gov LTd. Partnership | Cape Cod Research | | |
| 15 04 027A077 | 77 | 25 Research Rd. | Ira Ltd. Partnership | E-Paint | | |
| 15 04 027A078 | 78 | 15 Research Rd. | Chappy Realty LLC | J. K. Scanlan | | |
| 15 04 027A079 | 79 | 48 Research Rd. | Cape Moraine LLC. | Social Security | | |
| 15 04 027A080 | 80 | 0 Research Rd. | Contractor Center LLC | (vacant lot) | | |
| 15 04 027B018 | 18 | 0 Research Rd. | Town of Falmouth | Conservation Land | | |
| 16 01 004 067 | 67 | 0 Langdon G. Burwell Dr. | Accutech Industries | (vacant lot) | | |
| 16 01 004 068 | 68 | 0 Bernard E. Saint Jean | Wessling, Phil M. | (vacant lot) | | |
| 16 01 004 069 | 69 | 0 Bernard E. Saint Jean | Corner, Richard Trustee | (vacant lot) | | |
| 16 01 004 070 | 70 | 124 Bernard E. Saint Jean | Associates of Cape Cod | Associates of Cape Cod | | |
| 16 01 004 074 | 74 | 117 Bernard E. Saint Jean | Smith, Douglas C. Trustee | Kayak Pools | | |
| 16 01 004 075 | 75 | 121 Bernard E. Saint Jean | Honjo, Susumu Trustee | McClean Research | | |
| 16 01 004 081 | 81 | 117 Bernard E. Saint Jean | Petie Properties LLC | Falmouth Sheet Metal | | |
| 16 01 004 082 | 82 | 20 Langdon G. Burwell Dr. | Riley, Thomas R. | New England Shellfin | | |
| | | | | | | |

EXHIBIT A
FALMOUTH TECHNOLOGY PARK DEVELOPMENT AGREEMENT
PAGE 1 OF 2

| Septic Permit/ Date/ Flow (Title V) | Building Permit/ Use/ Date | Occupancy Permit/Date | Gross floor area built/Building Footprint | Development Agreement Phase |
|--|-------------------------------|--------------------------|---|--------------------------------|
| | | | | 1 |
| | | | | pre-dates agreement |
| | | | | 1 |
| | | | | vacant |
| | | | | 1a |
| | | | | 1n1a |
| | | | | 1 |
| | | | | vacant |
| | | | | vacant |
| | | | | 1a |
| | | | | predates |
| | | | | 1a |
| | | | | 1a |
| | | | | 2 |
| | | | | vacant |
| | | | | vacant |
| | | | | vacant |
| | | | | vacant |
| | | | | vacant |
| | | | | 2 |
| | | | | ? |
| | | | | 1 |
| | | | | ? |
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| | | | | |

EXHIBIT A
FALMOUTH TECHNOLOGY PARK DEVELOPMENT AGREEMENT
PAGE 2 OF 2