



Town of Falmouth

## Call for Offers for Redevelopment of Maine Turnpike Falmouth Spur Ramp System and Surplus Property

*Final Copy for Distribution: January 26, 2016*

In conjunction with the Maine Department of Transportation, the Town of Falmouth is calling for offers for redevelopment of the Maine Turnpike Falmouth Spur Ramp System where it intersects with U.S. Route 1 in Falmouth, Maine in exchange for the right to develop an approximately 11-acre surplus property located easterly of Route 1.

**Deadline for submission of offers is April 11, 2016 at 1:00 PM EST.**

### BACKGROUND

U.S. Route 1 runs, in part, through the Town of Falmouth, and is served by a series of highway ramps that provide access to and egress from the Maine Turnpike Falmouth Spur, as well as a bridge that crosses over Route 1 (the "Ramp System"). This Ramp System has been deemed to have excess capacity<sup>1</sup>, due to construction of other highway improvements designed to carry portions of the traffic originally intended to be served by the Ramp System. MaineDOT owns a parcel of land encumbered by components of the Ramp System lying easterly of Route 1, consisting of approximately eleven (11) acres, more or less (the "MaineDOT Land").

The Town of Falmouth (the "Town"), in an effort to spur additional economic opportunities along Route 1 in Falmouth, has proposed implementation of a highway construction project that will eliminate portions of the Ramp System by incorporating an at-grade intersection or roundabout and associated infrastructure of sufficient capacity (the "Highway Project") and, in turn, allow for commercial development of the MaineDOT Land. The Highway Project shall include removal of all obsolete components of the Ramp System, including those located westerly of Route 1. Ramps to be removed are: Route 1 SB on-ramp to Spur, Spur SB off-ramp to Route 1, Route 1 NB on-ramp to Spur, and Spur NB off-ramp to Route 1. The Spur off-ramp to Interstate 295 NB shall be maintained.

### SITE DESCRIPTION

See **ATTACHMENT A** for maps and photos of the MaineDOT Land encumbered by components of the Highway Ramp System lying easterly of Route 1, consisting of approximately eleven (11) acres. See project website for additional information.

Public service is available at the site and public sewer is located approximately 200 feet from the site. Natural gas is available in Bucknam Road.

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<sup>1</sup>Fewer than 2,000 vehicles used the ramps to and from Route 1 on an average annual daily basis in 2014. See MaineDOT data at [http://www.maine.gov/mdot/traffic/docs/ytcr/CountReport\\_Cumberland2014.pdf](http://www.maine.gov/mdot/traffic/docs/ytcr/CountReport_Cumberland2014.pdf)

While the Highway Project may create additional surplus property through the removal of the ramps located westerly of Route 1, that property is not included in this Call for Offers.

#### **PARTNERSHIP WITH MAINEDOT**

Through this Call for Offers, the Town proposes a public/private partnership in which the Town, with MaineDOT oversight, solicits a qualified developer (1) to design, fund and effectuate construction of the Highway Project in accordance with minimum specifications established by MaineDOT and with MaineDOT design approval in exchange for receiving a deed to the MaineDOT Land and (2) to initiate private development, with Town approval, of that land.

To advance the Highway Project, the Town approved a Locally Administered/Private Developer Project Agreement Regarding Route 1/Turnpike Connector Project and Surplus Land Conveyance on January 25, 2016 (see **ATTACHMENT B**).

#### **VALUE OF MAINEDOT LAND**

MaineDOT shall convey its interest in the MaineDOT Land to the developer selected by the Town through this Call for Offers process (the “Selected Developer”) provided that (1) the value of the proposed Highway Project equals the appraised value of the MaineDOT Land or (2) the Selected Developer and the Town agree to address any differences in the proposed value of the Highway Project and the appraised value of the MaineDOT Land as provided in either of the following two paragraphs. The Town is currently seeking an appraisal of the 11-acre MaineDOT Land. This appraisal is expected to be completed, reviewed and approved by MaineDOT prior to the review of the responses to this Call for Offers. This Call for Offers will be supplemented prior to the submission deadline to reflect notice of that appraised value (the “Appraised Value”).

If the proposed cost to implement the selected Highway Project exceeds the Appraised Value of the MaineDOT Land, then the Highway Project shall not proceed unless the Town and/or the Selected Developer agree to fund the difference between the two. In no event shall MaineDOT contribute financially to the cost of the Highway Project beyond that of providing staff resources and conveying the MaineDOT Land to the Selected Developer.

If the proposed cost to implement the selected Highway Project is less than the Appraised Value of the MaineDOT Land, then the Highway Project shall not proceed unless the Town and the Selected Developer agree to cause additional roadway infrastructure work approved by MaineDOT to be completed on State roads within the Town (the “Additional Municipal Work”) of a value sufficient to bring the total cost of the Highway Project plus the Additional Municipal Work up to the Appraised Value of the MaineDOT Land. The Selected Developer may propose to incorporate additional roadway infrastructure work or make cash payments to the Town to fund the additional roadwork as part of its proposal. This process will ensure that the State of Maine receives the full Appraised Value of the MaineDOT Land in consideration of the conveyance of the MaineDOT Land.

#### **ZONING**

The Town will consider appropriate zoning designations or contract zone agreements to accommodate the proposed use(s) of the MaineDOT Land currently occupied by the Ramp System. Existing Zoning Districts surrounding the MaineDOT land are Village Center 1 and

Business Professional. The Business Professional District is anticipated to be re-evaluated by the Town in conjunction with development of a Master Plan for Route 1 North in 2016.

### **TOWN VISION FOR THE ROUTE 1 AREA**

The Town seeks proposals for development of the MaineDOT Land in a manner that complement the Town's Vision for the Route 1 South commercial area. This vision is of a Village Center that is planned as a mixed use area, providing the community with a vibrant retail and service, professional office and residential core.

Specific objectives in this area are to:

- Provide and encourage greater intensity of land use;
- Capitalize on existing utility infrastructure;
- Allow mixed uses of commercial, residential and civic;
- Provide transportation infrastructure that supports motorists, pedestrian, transit riders and cyclists; and
- Create a building edge at the sidewalk.

To help realize this vision, the Town adopted new "Village Center" land use regulations for the Route 1 South area in 2013. In 2015 the Town completed a \$12M infrastructure construction project for Route 1 South, including underground power and communication systems.

Like most of the commercial Route 1 area, the surplus property is located in the Mill Creek watershed and near Mill Creek which drains into Casco Bay. The Town has included significant public stormwater quality management improvements in the Route 1 project to protect these valuable environmental resources and expects that any private developments adhere to a similar standard.

**The Town welcomes private investments in the Route 1 area that complement the Town's vision as articulated above. This can be done through the intensity, type of land use, and/or employment potential of the proposed development.**

### **HIGHWAY DESIGN SPECIFICATIONS**

Proposals must include improvements for the Highway Project that will eliminate portions of the Ramp System by incorporating an at-grade intersection or roundabout and associated infrastructure of sufficient capacity that meets, at a minimum, the design standards and specifications of MaineDOT identified in **APPENDIX C**.

The State of Maine Department of Transportation Standard Specifications (November 2014 Edition) referenced in this Call for Offers (the "MaineDOT Standard Specifications") are available from MaineDOT or online at

<http://maine.gov/mdot/contractors/publications/standardspec/docs/2014/StandardSpecification-full.pdf>.

Work related to the Highway Project must follow all policies and procedures of MaineDOT's Locally Administered Project ("LAP") guidelines (available at <http://www.maine.gov/mdot/lpa/lpadocuments/>). In contracts related to the Highway Project, contractors performing work on the Highway Project shall be required to follow the policies and procedures in said LAP guidelines

The Selected Developer shall provide the Municipality and MaineDOT with monthly progress reports for the duration of the Highway Project listing tasks completed, any changes in staffing, and any issues that could affect the Highway Project schedule

The Selected Developer shall be responsible for the quality of all design plans, specifications and estimates for the Highway Project using a documented quality-control process. Acceptance of the final plans, specifications and estimates ("PS&E") package by MaineDOT shall not relieve the Selected Developer and its contracted engineering consultant of responsibility for the quality of the engineering documents for the Highway Project

The Selected Developer shall ensure that all required environmental documents, including but not limited to the National Environmental Policy Act ("NEPA") checklist if applicable, are timely submitted to the Municipality, and the Municipality shall share such documents, as appropriate, with MaineDOT.

#### **FINANCIAL ASSISTANCE**

The Town prefers not to offer any financial assistance toward the project but may consider providing financial assistance, should responses to this Call for Offers incorporate such options that the town believes are in the best interest to the town. Requests as to type and/or amount of financial assistance should be specific with respect to proposed terms.

#### **ANTICIPATED TIMELINE**

|                          |  |
|--------------------------|--|
| January 26, 2016         | Call for Offers issuance   |
| February 15, 2016        | Submission of Appraisal Report   |
| <b>February 24, 2016</b> | <b>"Pre-proposal" meeting at 1:00 PM</b> at Falmouth Town Hall, 271 Falmouth Road<br>(there is no requirement to attend) |
| March 7, 2016            | Review and approval of Appraisal Report by MaineDOT.   |
| <b>March 7, 2016</b>     | <b>Prospective bidder registration deadline</b>  |
| March 8, 2016            | Issuance of appraisal addendum to prospective bidders.   |
| March 28, 2016           | Deadline for submission of questions   |
| <b>April 11, 2016</b>    | <b>1:00 PM EST - deadline for submission of Offer Proposals</b>  |
| April 2016               | Review of Offer Proposals  |
| April 25, 2016           | Developer interviews by Town Council   |
| May 9, 2016              | Possible Public Presentation(s) by Developer(s)  |
| May 23, 2016             | Council recommendation for preferred Developer and Public Hearing  |

|                |   |
|----------------|---|
| June 2016      | Council Selection of Developer (the “Selected Developer”) and authorization of Town staff to negotiate contract documents   |
| July 2016      | Approval by Town Council of contract documents. Develop Purchase and Sale Agreement with MaineDOT   |
| July 2016      | MaineDOT and Selected Developer signing of Purchase and Sale Agreement  |
| September 2016 | Selected Developer submission of Highway Project design and Site Development Plan for review by MaineDOT and Town. Corresponding preparation of Land Use Regulations by Town. |
| October 2016   | Maine DOT approves Highway Project design. Public participation process is implemented. Permitting activities are initiated.  |
| November 2016  | Town Council approves Land Use Regulations for the MaineDOT Land based on Site Development Plan.  |
| March 2017     | Planning Board approves Site Development Plan   |
| Spring 2017    | Start of Construction of Highway Project  |
| Fall 2018      | Construction of Highway Project completed, including removal of all obsolete components of the Ramp System  |
| Fall 2018      | MaineDOT conveys MaineDOT Land to Selected Developer based on final Right of Way Plans and legal description of the parcel provided by the Selected Developer.                |

### **SUBMISSION REQUIREMENTS**

Multiple proposals may be submitted as part of a proposal package.

Complete submissions shall include the following:

1. Letter of interest, including business name, contact person, address, phone number, e-mail address, and brief description of the business entity;
2. Description of development team qualifications to work on redevelopment projects of this scope and listing of references with contact information that demonstrates the company’s capabilities and experience;
3. Redevelopment Proposal:
  - a. Descriptions (narrative as well as concept plans) of (1) the proposed Highway Project improvements (including updated Right of Way Map that shows the limits of the highway right of way that will be preserved); (2) the redevelopment plan for the MaineDOT Land (e.g., size and use of building(s) and square footage of specific components, nature of

improvements, number of parking spaces); and (3) how the Highway Project and redevelopment plan complement the Town's Vision for Route 1 South.

- b. Proposed sustainability, energy efficiency, and stormwater quality management measures to be incorporated.
  - c. If the redevelopment is proposed to be phased, the narrative should clearly define the components and timing of each phase and indicate the nature of the conditions upon which construction of subsequent phases would be based.
  - d. If residential redevelopment is proposed, the proposal should include information about the bedroom compositions, rents and/or sales prices and amenities/services included.
  - e. If retail/commercial components of the redevelopment are proposed, information should be included about the anticipated type of tenants expected, and rents and/or sale prices.
  - f. Community Benefits Package: Description of proposed community benefits, such as projected property tax revenues, civic uses, open space, and trail access and improvements, which will come from the construction and ongoing operation of the proposed development.
- 4. Proposed Financial Terms, including estimated value of the Highway Project; conditions of any considered sale; financial assistance requested from Town of Falmouth and/or other entities (if applicable); estimated build-out value of the private development; and description of how the developer proposes to finance the Highway Project and private development.
  - 5. Proposal Conditions: Indicate any conditions or requirements which need to be granted by the Town of Falmouth and/or other entities, such as a zoning change.
  - 6. Project Time Schedule. A schedule of performance outlining the estimated time for each step in the Highway Project and redevelopment process. The schedule should recognize the time involved with finalizing redevelopment agreements, designing the project, financing the project, commencing construction, completing construction, removing all obsolete components of the Ramp System, lease negotiations (if necessary), marketing, and final occupancy.
  - 7. Marketing Approach: Indicate the proposed approach; how tenants or occupants (where applicable) will be attracted to the project.

Three (3) paper copies plus one (1) electronic copy of all submitted materials are required for a complete submission. No facsimile or e-mail submissions will be considered. Please submit the electronic copy as a disc or thumb drive in PDF format and enclose with your paper copies.

#### **DURATION OF PROPOSALS**

All proposals shall remain open to acceptance for sixty (60) days from April 11, 2016.

#### **PROPOSAL REVIEW**

The Town shall review all proposals properly submitted in response to the Call for Offers. The Town reserves the right to exercise discretion and apply its judgment with respect to any aspect of this

Call for Offers to select a proposal that best fulfills the needs of the Town and this redevelopment project.

## **SELECTION CRITERIA**

Proposals will be evaluated based on:

### Development Team Qualifications:

1. The proposal identifies a complete development team able to take the project from concept to completion and has established a clear delineation of roles. Please include your commercial brokerage, if you working with one.
2. The identified individuals who will be working on this project have worked on similar projects and have the capacity and qualifications to fulfill their responsibilities.
3. Indication that the entities within this development team have worked together successfully on previous projects.
4. Demonstrated experience of the development team in timely and successfully financing, operating and executing redevelopment projects.
5. Demonstrated experience working with the public sector in public/private real estate development projects.
6. Strong references from previous projects completed.

### Highway Project Improvements:

1. Design Concept for the Highway Project that meets, at a minimum, the MaineDOT Design Standards and Specifications identified in Appendix C.

### Redevelopment Proposal for MaineDOT Land:

1. Thoughtful, high density design concept.
2. Inclusion of sustainable, energy efficiency, and stormwater management aspects.
3. Experience with the product type being proposed.
4. Demonstration of understanding of the regulatory approval process.
5. Integration of the proposed project with, and positive impact on, surrounding uses, Route 1 commercial area, and neighborhood.
6. Demonstration of the development team's understanding of the current market and community.

### Financial Analysis and Capacity:

1. Proposal price.
2. Value of the proposed Highway Project as compared to the Appraised Value of the MaineDOT Land. The value of the proposed Highway Project shall be calculated by applying MaineDOT bid item averages to the proposed quantities to determine the value of the infrastructure costs associated with the proposal.
3. Thoughtful cost estimates that are consistent with the project timeline for implementation and expectations of return.
4. Credibility of proposed economic assumptions.
5. Evidence of financial resources consistent with project requirements.
6. Demonstrated ability to finance similar sized projects.
7. Evidence that the Selected Developer has the ability to provide the Municipality with performance and payment bonds or an irrevocable letter of credit complying with the terms of 14 M.R.S. § 871, acceptable to the Municipality and naming the Municipality as the beneficiary.

The value of the performance and payment bonds and/or the letter of credit will be in the full amount of the cost of completing the Highway Project, and shall conform to the general requirements for surety as outlined under Section 110 of the MaineDOT Standard Specifications;

Note: Performance bonds or other financial arrangements to protect the Municipality will be required as part of the contract between the Municipality and the Selected Developer in case the Selected Developer fails to complete the Highway Project or does not pay its subcontractors.

Proposal Conditions:

1. Description of specific conditions or requirements that need to be granted by the Town of Falmouth and/or other entities, such as a zoning change
2. If construction of the Highway Project requires the acquisition of additional rights in real estate abutting the Ramp System, such rights must be acquired by the Selected Developer and conveyed to MaineDOT at the completion of the Highway Project.

**“PRE-PROPOSAL” MEETING**

There will be a “pre-proposal” meeting at 1:00 PM on February 24, 2016 at Council Chambers, Falmouth Town Hall, 271 Falmouth Road to allow potentially interested developers to ask questions of the Town and MaineDOT. There is no requirement to attend this pre-proposal meeting.

**WARRANTY**

The Town and MaineDOT make no warranty as to title, dimensions or conditions of the land and improvements, including, without limitation, the presence of hazardous materials. Developers submitting proposals will need to conduct their own due diligence as to all conditions. The Town and MaineDOT will cooperate with developers where reasonably possible, but all costs of due diligence shall be the responsibility of each developer.

**RESPONSE SUBMISSION**

All responses to this Call for Offers shall be submitted in a sealed envelope or package marked “FALMOUTH SPUR CALL FOR OFFERS SUBMISSION” and must be received by Nathan Poore, Town Manager, Falmouth Town Hall, 271 Falmouth Road, Falmouth, ME 04105, no later than 1:00 PM EST on April 11, 2016.

**ADDITIONAL INFORMATION**

All additional information concerning this Call for Offers (such as the 1961 As-Built MaineDOT Plans) has been posted at <http://www.falmouthme.org/long-range-planningeconomic-development/pages/maine-turnpike-ramp-redevelopment-project>.

**DEADLINE FOR QUESTIONS**

All questions regarding this Call for Offers shall be directed to Theo Holtwijk, Director of Long Range Planning, [tholtwijk@falmouthme.org](mailto:tholtwijk@falmouthme.org) or 207-699-5340. Deadline for submission of any questions is March 28, 2016 at 1:00 PM EST. Responses that substantially alter or contribute to this Call for Offers will be issued in the form of a written addendum to all those who have registered with the Town (see below) not later than March 7, 2016.

**MANDATORY REGISTRATION FORM**

Developers interested in responding to this Call for Offers are required to complete a registration form and submit this no later than March 7, 2016 to the Town of Falmouth. This will allow

interested developers to receive Call for Offers addenda and/or FAQ briefings, as applicable. The registration form is attached as Appendix D.

#### **RIGHT TO REJECT SUBMISSIONS**

The Town of Falmouth reserves the right to reject any or all submissions received, and to negotiate development features, the terms of Additional Municipal Work (if needed), and funding terms in order to best serve the interests of the Town and MaineDOT. The Town reserves the right to waive as an informality any irregularities contained in any submission.

Acceptance of a proposal does not guarantee that MaineDOT will enter into a final purchase and sales agreement with the submitting party, but indicates the Town and MaineDOT's good faith intention to negotiate such documents with the proposing party. Any selection is contingent upon final approval by the Falmouth Town Council, and execution of a project contract between the Municipality and the Selected Developer will be conditioned on the negotiation and execution of a purchase and sale agreement between MaineDOT and the Selected Developer.

## **APPENDICES**

A: MAPS AND PHOTOS

B: MAINE DEPARTMENT OF TRANSPORTATION LOCALLY ADMINISTERED/PRIVATE DEVELOPER PROJECT AGREEMENT WITH THE TOWN OF FALMOUTH REGARDING ROUTE 1/TURNPIKE CONNECTOR PROJECT AND SURPLUS LAND CONVEYANCE

C: MAINEDOT MINIMUM DESIGN STANDARDS AND SPECIFICATIONS

D: REGISTRATION FORM

## APPENDIX A: MAPS AND PHOTOS

Insert original ramp construction plans here

### Falmouth Turnpike Spur - Route One



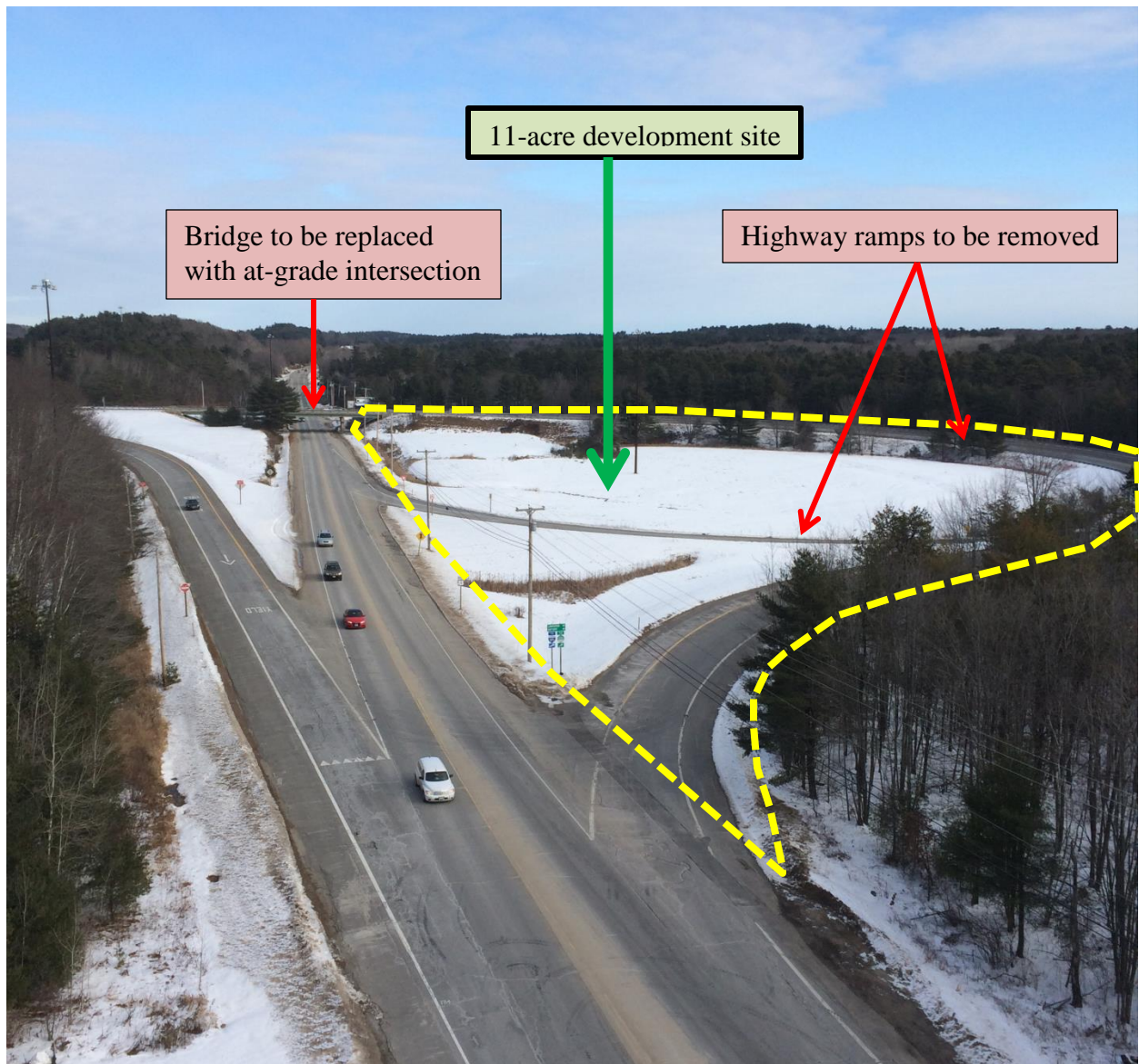


Figure 1: Route 1 development site looking northeast



Figure 2: Route 1 and NB on-ramp looking northeast



Figure 3: NB on-ramp looking east



Figure 4: Development site looking east-northeast



**Figure 5: Development site looking south**



**Figure 6: Bridge to be removed looking northwest**



**Figure 7: Bridge to be removed looking southeast**



Figure 8: Route 1 with development site in rear looking southeast

## APPENDIX B



|                          |       |
|--------------------------|-------|
| <i>Internal use only</i> |       |
| TEDOCS #:                | _____ |
| CT #:                    | _____ |
| CSN #:                   | _____ |
| PROGRAM:                 | _____ |

**MAINE DEPARTMENT OF TRANSPORTATION  
Locally Administered/Private Developer Project Agreement  
With the  
Town of Falmouth  
Regarding Route 1/Turnpike Connector Project and Surplus Land Conveyance**

This Locally Administered/Private Developer Project Agreement (the “Agreement”) is entered into by and between the Maine Department of Transportation, an agency of the State of Maine with headquarters at 24 Child Street, Augusta, Maine (“MaineDOT”), and the Town of Falmouth, a municipal corporation and body politic with its principal offices at 271 Falmouth Rd , Falmouth, Maine (the “Municipality.”) (MaineDOT and the Municipality are collectively referred to as the “Parties”).

### **RECITALS**

1. U.S. Route 1 runs, in part, through the Town of Falmouth, and is served by a series of highway ramps that provide access to and egress from the Maine Turnpike Falmouth Spur, as well as a bridge that crosses over Route 1 (the “Ramp System”);
2. The Ramp System has excess capacity, due to construction of other highway improvements designed to carry portions of the traffic originally intended to be served by the Ramp System;
3. MaineDOT owns a parcel of land encumbered by the components of the Ramp System lying easterly of Route 1, consisting of approximately eleven (11) acres, more or less (the “MaineDOT Land”);
4. The Municipality, in an effort to spur additional economic opportunities along Route 1 in Falmouth, has proposed implementation of a highway construction project that will eliminate portions of the Ramp System by incorporating an at-grade intersection or roundabout and associated infrastructure of sufficient capacity (the “Highway Project”) and, in turn, allow for commercial development of the MaineDOT Land;
5. While the Highway Project is expected to potentially create two additional surplus properties owned by MaineDOT through the removal of ramps located westerly of Route 1, these properties are not subject to the Municipality’s Request for Proposals (defined herein).

6. To fund the construction of the Highway Project, the Municipality has proposed a public/private partnership in which the Municipality, with MaineDOT oversight, solicits a developer to fund and effectuate construction of the Highway Project with MaineDOT design approval in exchange for receiving a Governor's Deed to the MaineDOT Land.
7. The appraised value of the MaineDOT Land is expected to meet or exceed the cost of developing and constructing the Highway Project, and the Parties intend for the Highway Project to go forward only if that expectation is realized, or if the selected developer and/or the Municipality agree to fund any overages or perform additional work to the extent of any underages. MaineDOT shall not contribute financially to the cost of the Highway Project beyond that of providing staff resources and conveying the MaineDOT Land to the selected developer.

**NOW THEREFORE**, in accordance with the foregoing, the Parties agree as follows:

8. **Municipal Authorization:**

The Municipality shall first obtain authorization from its governing board to proceed with the implementation of the concepts outlined in this Agreement (the "Municipal Authorization"). Execution of this Agreement by the authorized municipal entities shall indicate satisfaction of this condition.

9. **Appraisal of MaineDOT Land:**

Upon Municipal Authorization, the Municipality shall, at its expense, hire a Maine Certified General Real Estate Appraiser acceptable to MaineDOT to determine the fair market value of the MaineDOT Land. The appraiser's report shall be prepared in conformance with the Federal Highway Administration's Uniform Act and shall be submitted to MaineDOT for review and approval before final acceptance of the report by the Municipality (the "Appraisal").

10. **Request for Proposals:**

The Municipality shall, at its expense, issue a Call for Offers soliciting qualified entities to design and construct the Highway Project, including removal of all obsolete components of the Ramp System, in exchange for receiving a deed to the MaineDOT Land. The Call for Offers process shall be directed by the following contingencies:

- a. The Call for Offers shall include the requisite MaineDOT minimum design standards, specifications, and any other considerations, as well as review and scoring criteria developed jointly by MaineDOT and the Municipality;

- b. The Municipality and MaineDOT shall work cooperatively to draft the Call for Offers and, upon acceptance by both Parties, the Municipality shall issue the Call for Offers and collect all submissions for review and consideration by the Municipality
- c. The Call for Offers will be supplemented upon MaineDOT's review and approval of the Appraisal to inform interested responders of the determined value of the MaineDOT Land, and the deadline for submissions in response to the Call for Offers shall be extended if the timing of review and approval of the Appraisal is not consistent with the anticipated timeline set out in the Call for Offers.
- d. The Municipality shall have the right to reject any and all proposals and to waive irregularities.
- e. It is the Parties' intent that the appraised value or purchase price, whichever is higher, of the MaineDOT Land shall be comparable to the cost of fully implementing the selected Highway Project.
  - i. If implementation of the selected Highway Project will cost more than the appraised value of the MaineDOT Land, the Highway Project shall not proceed unless the Municipality or the developer selected in the Call for Offers process (the "Selected Developer") agrees to fund the difference between the two. In no event shall MaineDOT contribute financially to the cost of the Highway Project beyond that of providing staff resources and conveying the MaineDOT Land to the Selected Developer.
  - ii. If implementation of the selected Highway Project will cost less than the value of the MaineDOT Land, the Municipality hereby agrees, at its own cost, to cause additional roadway infrastructure work approved by MaineDOT to be completed on State roads within the Municipality (the "Additional Municipal Work") of a value sufficient to bring the total cost of the Highway Project plus the Additional Municipal Work up to the appraised value of the MaineDOT Land. This process will ensure that the State of Maine receives the full benefit of its investment of the appraised value of the MaineDOT Land.
  - iii. The Call for Offers shall allow the Municipality to select a developer that does not offer the greatest financial return to MaineDOT, provided that upon further negotiation the selected developer agrees to perform Additional Municipal Work of a value sufficient to bring the total cost of the Highway Project plus the Additional Municipal Work up to the appraised value of the MaineDOT Land

## **11. Project Funding and Financial Assurances:**

- a. The Municipality, through its contract with the Selected Developer, will ensure that the Selected Developer is responsible for all costs incurred by it or its agents, contractors or subcontractors in connection with implementation and completion of the Highway Project, including but not limited to design, development, permitting and construction.
- b. As a condition to awarding the Call for Offers to the Selected Developer, the Municipality shall require that the Selected Developer provide the Municipality with performance and payment bonds or an irrevocable letter of credit in lieu of such bonds complying with the terms of 14 M.R.S. § 871, acceptable to the Municipality and naming the Municipality as the beneficiary. The value of the performance bond, payment bond, and letter of credit, as applicable, will be in the full amount of the cost of completing the Highway Project, and shall conform to the general requirements for surety as outlined under Section 110 of the State of Maine, Department of Transportation Standard Specifications, November 2014 Edition (the “MaineDOT Standard Specifications”);
- c. The Municipality, through its contract with the Selected Developer, shall require that any consultants/contractors hired by the Selected Developer to work on the Highway Project comply with insurance requirements consistent with those required by MaineDOT, as follows:
  - i. Construction contractors shall comply with insurance requirements consistent with those outlined under Section 110 of the MaineDOT Standard Specifications. Minimum insurance requirements shall include, but are not limited to, Workers’ Compensation Insurance. Commercial General Liability Insurance and Automobile Liability Insurance as defined therein. All policies shall name the Municipality as an Additional Insured.
  - ii. Consultants shall comply with insurance requirements consistent with those outlined in the most recent version of MaineDOT’s Consultant General Conditions. Minimum insurance requirements shall include, but are not limited to, Professional Liability Insurance, Workers’ Compensation Insurance. Commercial General Liability Insurance and Automobile Liability Insurance. All policies shall name the Municipality as an Additional Insured.
  - iii. All consultants/contractors hired by the Selected Developer shall submit to the Municipality copies of applicable certificates of insurance as proof of their insurance coverages.

The Municipality's contract with the Selected Developer shall provide for the suspension or termination of all work associated with the Highway Project in progress if such insurance is terminated or canceled without being replaced with comparable insurance.

- d. The Municipality, through its contract with the Selected Developer, shall require that any consultants/contractors hired by the Selected Developer to work on the Highway Project provide signed, valid and enforceable Performance and Payment Bonds under terms consistent with those required by MaineDOT under Section 110 of the MaineDOT Standard Specifications and in compliance with the terms of 14 M.R.S. § 871. Bonds shall be issued in the full amount of the associated contract and payable to the Municipality.
- e. All costs incurred by MaineDOT staff in developing the Call for Offers and overseeing the Highway Project, including but not limited to design review, project management and construction oversight, shall be the responsibility of MaineDOT and shall not be included in the overall Highway Project costs borne by the Selected Developer.
- f. All costs incurred by the Municipality's staff in developing the Call for Offers and overseeing the project, including but not limited to design review and construction oversight, shall be the responsibility of the Municipality unless negotiated between the Municipality and the Selected Developer to be costs assumed by the Selected Developer. In no event shall such costs be included in the Selected Developer's overall Highway Project costs for the purpose of comparing the Highway Project's value against that of the MaineDOT Land as outlined in Section 10.d herein.

## **12. Project Development, Construction and Oversight:**

- a. Roles of Municipality:
  - i. The Municipality shall be responsible for primary coordination with and oversight of the Selected Developer for all purposes related to the Highway Project as though the Highway Project were being implemented as a Locally Administered Project ("LAP") in accordance with MaineDOT standards. At all times, the Municipality shall ensure that all policies and procedures of MaineDOT's LAP guidelines (available at <http://www.maine.gov/mdot/lpa/lpadocuments/>) are followed. In contracts related to the Highway Project, the Selected Developer and contractors performing work on the Highway Project shall be required to follow the policies and procedures in said LAP guidelines

- ii. The Municipality shall provide MaineDOT with monthly progress reports obtained from the Selected Developer for the duration of the Highway Project listing tasks completed, any changes in staffing, and any issues that could affect the Highway Project schedule;
- iii. The Municipality shall provide construction oversight of the Highway Project, either through a contract for consultant engineering services or through assignment of qualified municipal personnel trained to implement the LAP process.
- iv. The Municipality shall be responsible for ensuring the quality of all design plans, specifications and estimates for the Highway Project using a documented quality-control process. Acceptance of the final plans, specifications and estimates (“PS&E”) package by MaineDOT shall not relieve the Municipality and, if applicable, its contracted engineering consultant of responsibility for the quality of the engineering documents for the Highway Project
- v. The Municipality shall provide the public and all abutters to the Highway Project with opportunity to learn about the Highway Project and express concerns using a public process that is appropriate for the scope of work and acceptable to the MaineDOT Project Manager;
- vi. The Municipality shall ensure that all required environmental documents, including but not limited to the National Environmental Policy Act (“NEPA”) checklist if applicable, are submitted to MaineDOT;
- vii. The Municipality shall ensure that all required approvals, permits and licenses for the Highway Project are obtained. Copies of all such documents and an environmental certification shall be part of the final PS&E package submitted to MaineDOT by the Municipality;
- viii. MaineDOT’s Utility Accommodation Rules (2014) shall apply to all required utility relocations. The Municipality shall coordinate the Highway Project with all affected utilities.
- ix. In contracts related to the Highway Project, the Municipality shall ensure that the Selected Developer includes provisions that require the contractor to indemnify, defend, and hold harmless the Municipality and MaineDOT, their officers, agents, and employees from all claims, suits, or liabilities arising from negligent or

wrongful acts, errors, or omissions by the contractor, its officials, agents, employees, consultants, or subcontractors.

b. Roles of MaineDOT:

- i. While oversight of the Highway Project rests with the Municipality as though the Highway Project were being implemented as a Locally Administered Project in accordance with MaineDOT standards, MaineDOT will assign a Project Manager (the “MaineDOT Project Manager”) to the Highway Project to carry out the State’s responsibilities and to be available to the Municipality and its designated project engineer for advice and consultation as necessary. The MaineDOT Project Manager or a designee will have the authority to:
  1. Request design changes if necessary to meet applicable laws and design standards;
  2. Review and inspect construction activities and associated documentation, and test materials used in connection with the Highway Project to ensure compliance with the Highway Project specifications.
- ii. MaineDOT may reject work or materials that do not comply with the Highway Project specifications. In such instance, the Municipality shall be responsible, or shall hold the Selected Developer responsible, for any costs incurred to bring such work or materials into compliance, and shall take all other action needed to ensure proper performance of this Agreement and compliance with Highway Project specifications.
- iii. MaineDOT shall assist the Municipality in the development of the Call for Offers and associated scoring criteria.
- iv. Upon satisfactory completion of the Highway Project, convey the MaineDOT Land to the Selected Developer by Governor’s Deed. MaineDOT shall be responsible for preparation of the deed and costs associated thereto, except that the Selected Developer shall be responsible for the Selected Developer’s share of real estate transfer taxes due upon recording of the deed, if any.

13. **Maintenance of Infrastructure:**

Upon completion of the Highway Project, the Municipality shall be responsible for all year-round maintenance associated with the resulting infrastructure in a manner consistent with that applied to infrastructure located within the Urban/Compact limits. Maintenance shall consist of upkeep and repairs

necessary to preserve the intended public use of the infrastructure for its intended life as measured by industry standards, all winter maintenance, and all associated costs.

**14. Project Records and Audit:**

“Project Records” shall consist of all printed or electronic plans, specifications, contracts, reports, notes, or other documents prepared by or for the Municipality or the Selected Developer in connection with the Highway Project. The Municipality shall require copies of all Project Records from the Selected Developer, and shall retain all Project Records for at least four (4) years from the date of MaineDOT’s final acceptance of the Project. If any litigation, claim, negotiation or audit has begun before the end of this four (4) year period, all Project Records shall be kept at least until all action and resolution of all issues arising from it are complete. All Project Records shall be provided to MaineDOT upon request after completion or termination of the Highway Project.

**15. Termination:**

- a. Each Party reserves the right to terminate the Highway Project for any reason prior to the Municipality’s award of a contract to the Selected Developer.
- b. This Agreement may be terminated at any time by mutual written agreement of the Parties.
- c. The Municipality may postpone, suspend, abandon or otherwise terminate this Agreement for any reason prior to the onset of construction.
- d. The Municipality may postpone, suspend, abandon or otherwise terminate this Agreement for cause after the onset of construction upon thirty (30) days written notice to MaineDOT, and with the condition that, in such event, the Municipality shall be responsible, at its cost, for ensuring that any disturbed portions of the highway infrastructure are immediately restored to a condition acceptable to MaineDOT, in MaineDOT’s sole discretion. At no time shall the Municipality allow conditions to exist that compromise the safety of the traveling public, nor shall MaineDOT be required to implement or pay for such restorative work.
- e. MaineDOT may postpone, suspend, abandon or otherwise terminate this Agreement for cause upon thirty (30) days written notice to the Municipality if the Municipality fails to perform any of the services required under this Agreement to the satisfaction of MaineDOT, and if the Municipality fails to remedy any such default in a manner reasonably satisfactory to MaineDOT within fourteen (14) days following receipt of written notice to remedy the same.

MaineDOT may, at its option, and after such fourteen (14) days' written notice has expired, cure such default for the account of the Municipality, and the Municipality shall reimburse MaineDOT for the amount paid for any reasonable expense or contractual liability so incurred, with interest.

In no event shall any such action taken under this section be deemed a breach of contract, nor shall it represent MaineDOT's waiver of claims for breach of contract or its right to any other remedy it may have pursuant to this Agreement, or at law or in equity.

- f. In the event of any such termination, the Municipality and all consultants and contractors working on the Highway Project shall stop work immediately, except for work required to protect public health and safety, and provide MaineDOT with all Highway Project records within thirty (30) days of termination date.

**16. Expiration:**

All provisions of this Agreement, except those which, by their very nature, are intended to survive this Agreement, shall expire upon satisfactory completion of the Highway Project and all terms of this Agreement.

**17. Debarment:**

- a. The Municipality agrees that it shall not contract with an outside entity that is debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state agency.
- b. The Municipality agrees that if it contracts with an outside entity, that entity and its principals shall certify that they:
  - i. Have not within a 3-year period preceding the date of such contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with the following:
    - 1. Obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction;
    - 2. Violating federal or state antitrust statutes; or
    - 3. Committing embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.

- ii. Are not currently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph i of this section; and
- iii. Have not within a 3-year period preceding this agreement had one or more public transactions (federal, state or local) terminated for cause or default.

**18. Conflict of Interest:**

By signing this Agreement, the Municipality agrees that it shall not enter into a contract with any outside entity that has a financial or other interest in the Highway Project or in its outcome, other than the performance of the contract and the other consideration outlined in this Agreement. This prohibition includes, without limitation: a.) any agreement with, or other interest involving, third parties having an interest in the outcome of the Highway Project that is the subject of the contract; b.) any agreement providing incentives or guarantees of future work on the project or related matters; and c.) any interest in real property acquired for the Highway Project unless such real property interest is openly disclosed to MaineDOT before the person or entity entered into the contract.

**19. General Provisions:**

- a. Governing Law. This Agreement shall be construed under the laws of the State of Maine. Additionally, all activities under this Agreement shall be performed in accordance with applicable federal laws and regulations, including without limitation Title 23 in the U.S. Code (USC) for statutory law, Title 23 in the Code of Federal Regulations (CFR) for administrative law, and Title 2 CFR, Part 200, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.”
- b. Independent Capacity. The Municipality, its employees, agents, representatives, consultants and contractors shall not act as officers, employees or agents of MaineDOT.
- c. Flow Down. Contracts between the Municipality and any consultant, contractor or other third party shall contain or incorporate by reference all applicable provisions of this Agreement.
- d. Binding Effect. The Parties shall be bound by the terms of this Agreement. This provision shall apply to the Agreement’s executors, their successors, administrators and legal representatives.

**IN WITNESS WHEREOF**, the Parties have executed this Agreement effective on the date last signed below.

**Town of Falmouth  
Transportation**

By: \_\_\_\_\_  
**Nathan A. Poore**  
Falmouth Town Manager  
Operations  
Duly authorized

Date: \_\_\_\_\_

**Maine Department of**

By: \_\_\_\_\_  
**Dale Doughty, Director,**  
Bureau of Maintenance and  
  
Duly authorized

Date: \_\_\_\_\_

## APPENDIX C: MAINEDOT MINIMUM DESIGN STANDARDS AND SPECIFICATIONS

All Project designs are expected to meet, at a minimum, the following design standards and specifications:

- a. All components of the proposed design, bidding and construction shall meet the requirements of State of Maine, Department of Transportation Standard Specifications, November 2014 Edition (the “MaineDOT Standard Specifications”);
- b. The maximum grade of the Falmouth spur approach shall not exceed 3% unless otherwise approved by MaineDOT;
- c. The maximum grade of Route 1 shall not exceed 3% unless otherwise approved by MaineDOT;
- d. A minimum Stopping Sight Distance (SSD) for 45 mph on the Falmouth spur;
- e. A minimum Intersection Sight Distance (ISD) for 40 mph;
- f. The proposed template for Route 1 and the Falmouth spur must match Corridor Priority 1 standards;
- g. All capacity, queuing, and level-of-service analyses shall be performed in accordance with the 2010 Highway Capacity Manual (“HCM”) methodologies;
  - i. Signalized and stop sign controlled intersections shall be modeled using the latest version of Synchro/SimTraffic;
  - ii. Roundabout capacity analysis, if applicable, shall be performed using SIDRA;
  - iii. Computer modeling shall be provided to MaineDOT showing impacts of queuing and level of service. If required, microsimulation for the proposed roundabout concept will be provided using VISSIM;
- h. All movements must be a minimum of Level of Service ( LOS) D for a 20 year design life measured as 20 years from the scheduled year of completion of the Project;
- i. All design hour volumes shall be based on the 30 highest hourly volumes for the design year.
  - i. Available 2011 turning movement counts for the intersection of Route 1 and Bucknam Road, along with ramp counts and other available counts near the intersection site, may be used as a starting point for developing design hour volumes.
  - ii. Automatic Traffic Recorder (“ATR”) counts, including speeds and vehicle classification, shall be collected for a 72-hour period along Route 1 north and south

of the interchange and along the existing Falmouth Spur entrance and exit ramps to supplement available information.

- j. Design year traffic estimates shall be based on PACTS long-range travel demand forecasts for Route 1 and the Falmouth Spur approaches and on town-approved 20-year development-generated estimates for the easterly approach to the intersection;
- k. The queue length of the Falmouth Spur, after redesign and consideration of future build volumes, shall not exceed 200 feet. Sight distance to the back of the queue shall be maintained in accordance with the specification d. above, and queuing on the Falmouth Spur approach shall not interfere with the free movement of vehicles traveling between the Falmouth Spur and I-295;
- l. Design speed shall match existing posted speeds, except as otherwise required through compliance with the specifications d. and e. above;
- m. Clear zones shall be maintained in accordance with Corridor Priority 1 standards;
- n. Side slope grades shall meet a ratio of 4:1 or flatter or as approved by MaineDOT;
- o. Safety analysis of any proposed intersection design shall include an inventory of existing crashes, a prediction of crashes with the proposed intersection design, and a comparative evaluation. Crash analysis shall be based on the most recent five years of data available from MaineDOT and/or the Falmouth Police Department for the Falmouth Spur/U.S. 1 interchange ramps and the segment of U.S. 1 extending from the driveway of the Foreside Tavern, located at 270 U.S. 1, to the driveway of Rose Stone, located at 342 U.S. 1;
- p. If the proposed design includes a roundabout, the design shall be subject to peer review and further analysis using 2010 HCM Roundabout analysis, with SIDRA used for HCM level-of-service analysis and VISSIM used for the visual presentation. MaineDOT has selected GHD out of Wisconsin as the peer reviewer.
- q. All drainage design shall match into surrounding drainage structures;
- r. An Interstate modification request must be processed through the Federal Highway Administration (FHWA);
- s. All signing shall comply with the Manual on Uniform Traffic Control Devices (MUTCD) and the FHWA Roundabout Guide (including potential changes to existing overhead signage in the area);
- t. All Project lighting levels, including those designed for a roundabout and all associated entrances and islands, shall meet minimum light levels established in the AASHTO Roadway Lighting Design Guide;
- u. All striping and stenciling in a roundabout and within 300 feet on all legs shall include recessed preformed thermoplastic markings;

- v. All project costs shall be paid by the Selected Developer;
- w. A municipally supported landscape plan shall be established as a component of the Project proposal;
- x. The proposed design shall accommodate a WB-67 Design Vehicle;
- y. Prior to Project implementation, The Selected Developer shall submit a preliminary design report and the final Plans, Specifications and Estimate, including final right of way plans ("PS&E") package, to the Town, who will coordinate with MaineDOT for review and comment. If necessary, the Selected Developer shall provide updated schedules and estimates as changes occur. Any changes requested or concerns expressed by MaineDOT must be addressed to MaineDOT's satisfaction before the Project may proceed.

#### **Other Requirements**

1. Indemnification. The Selected Developer shall indemnify, defend and hold harmless the Town and MaineDOT, their officers, agents and employees from all claims, suits or liabilities arising from negligent or wrongful acts, errors or omissions by the Selected Developer, its officials, employees, agents, consultants or contractors. This provision shall survive the termination or expiration of the Project Contract.
2. The Selected Developer, its employees, agents, representatives, consultants and contractors shall not act as officers, employees or agents of MaineDOT.
3. If construction of the Highway Project requires the acquisition of additional rights in real estate abutting the Ramp System, such rights must be acquired by the Selected Developer and conveyed to MaineDOT at the completion of the Highway Project.

#### **APPENDIX D: REGISTRATION FORM**

I am interested to be placed on a Prospective Bidder list to receive any Call for Offers Addenda and/or FAQ updates for the Surplus Maine Turnpike Falmouth Spur Ramp Property.

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Organization: \_\_\_\_\_

Address/City/Zip: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

E-mail: \_\_\_\_\_

Please return this form to: Theo Holtwijk, Director of Long-Range Planning, Town of Falmouth, 271 Falmouth Road, Falmouth, ME 04105, [tholtwijk@falmouthme.org](mailto:tholtwijk@falmouthme.org), (207) 699-5340.

**DEADLINE FOR REGISTRATION IS MARCH 7, 2016, 5:00 PM EST.**

Thank you for your interest.