

MEMORANDUM OF UNDERSTANDING

This Agreement is made as of this _____ day of December, 2018, by and between the Town of Falmouth, Maine municipal corporation whose mailing address is 271 Falmouth Rd., Falmouth, ME 04105 (the “Town”) and Falmouth Land Trust, a Maine non-profit corporation whose mailing address is _____, Falmouth, ME 04105 (the “Trust”), relating to the purchase by the Trust of certain property located in the Tidewater Master Planned Development District in Falmouth (“Tidewater”) from the Town of near or even date herewith.

WHEREAS, pursuant to a Purchase and Sale Agreement between the Trust as Buyer and the Town as Seller dated November __, 2018 the Trust acquired Tidewater from the Town; and

WHEREAS, the Town wishes to provide funding for the Trust to manage the conservation easement over a portion of Tidewater known as TF1 and the non-conservation easement portions known as TF2 and TF3 (“the Property”), specifically in the area of invasive plant management on the further terms and conditions stated herein; and

WHEREAS, the Town may also in the future receive wetlands mitigation funds related to its purchase of a parcel of land in the Tidewater Master Planned Development District known as TV5 (“TV5”); and

WHEREAS, the Town wishes to share a portion of any wetlands mitigation funds it receives with the Trust on the further terms and conditions stated herein; and

WHEREAS, the Property is subject to the terms of a certain Conservation Easement held by the Town dated October 14, 2005 and recorded in the Cumberland County Registry of Deeds in Book 23279, Page 235 (the “Conservation Easement”); and

WHEREAS, the Trust will assume the rights and responsibilities that run with the land under the Conservation Easement;

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements herein the parties hereto agree as follows:

1. Demolition Escrow Fund. The parties will enter into a Municipal Escrow Agreement pursuant to which the Town will deposit Fifty Thousand Dollars (\$50,000) (the “Escrow Funds”) with the Town Treasurer, subject to the following terms:
 - a. The Trust will demolish the structures located on the TF2 and TF3 sections of the Property (the “Demolition Work”). With Town approval, the Trust may preserve structures or portions thereof deemed structurally sound and useable, in the Town’s reasonable discretion.
 - b. Following completion of the Demolition Work, the Trust will deliver to the Town invoices for services rendered or other satisfactory documentation (in the Town’s reasonable discretion) confirming that the Demolition Work has

been completed, and will include a request for reimbursement from the Escrowed Funds.

- c. If the Town agrees that the Demolition Work has been completed, the Town Manager will with reasonable promptness sign the request and present it to the Town Treasurer under the terms of the Municipal Escrow Agreement to be signed at Closing, so that the Town Treasurer will issue the disbursement within five (5) business days of the Trust's request for reimbursement.
 - d. The actual amount expended by the Trust to complete the Demolition Work need not be equal to or greater than the Escrow Funds for the Trust to receive disbursement of the full amount of the Escrow Funds.
 - e. Should the Trust fail to complete the Demolition Work in accordance with subsection (b) above by ~~DATE~~ twelve (12) months from the date hereof, the full escrowed amount will be released to the Town.
2. Wetlands Mitigation Funds. In the event the Town receives wetland mitigation funds related to TV5 within ~~fifteen (15) years~~ of the date of this Agreement, the Town will share with the Trust on a 50/50 basis any funds in excess of (i) \$X APPRAISED VALUE OF TV5 minus (ii) the appraised value of the portion of TV5 allocated to the wastewater facility. The Town will determine the specific portion of TV5 to allocate to its wastewater facility at a later date, and have this area appraised to determine its value for the purposes of the calculation described in the preceding sentence. The Town will deliver payment of any amounts due and owing under this Section 2 within ninety (90) days of receipt of the wetland mitigation funds.
 3. Invasive Plant Management. The Trust intends to undertake a program of invasive plant mitigation and management as part of its stewardship of the Property and the fulfillment of its responsibilities under the Conservation Easement.
 4. Capital Campaign. The Trust will engage in a diligent capital campaign to support the continued maintenance and upkeep of the Property.
 5. Approval by Town Council and Trust Board of Directors. By the signatures below, the Town and the Trust represent to the other that this Agreement represents the binding commitment of the Town of Falmouth acting by and through the Town Council, and of the Trust acting by and through its Board of Directors and that all requisite votes have been taken to authorize the signatories below to approve the terms and conditions set forth herein on behalf of the parties to this Agreement.

IN WITNESS WHEREOF:

FALMOUTH LAND TRUST

By: _____, its President

TOWN OF FALMOUTH

By: Nathan Poore, Town Manager