

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 any wetlands mitigation funds it receives above **[X]** with the Trust on the further terms and conditions stated herein;

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

1. Invasive Plant Management 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 complete invasive plant management work on the Property as contemplated by the Management Plan for the Protected Property Tidewater Farms (April 4, 2005) and further defined by the Parties subsequent to the signing of this Agreement (the “Plant Management Work”).
 - b. Following completion of the Plant Management Work, the Trust will deliver to the Town receipts for services rendered or other satisfactory documentation (in the Town’s reasonable discretion) confirming that the Plant Management Work has been completed, and will include a request for reimbursement from the Escrowed Funds.
 - c. If the Town agrees that the Plant Management Work has been completed, the Town Manager will sign the request and within three (3) business days present it to the Town Treasurer under the terms of the Municipal Escrow Agreement to be signed at Closing.

- d. The actual amount expended by the Trust to complete the Plant Management Work need not be equal to or greater than the Escrow Funds for the Trust to receive disbursement of the full amount.
 - e. Should the Trust fail to complete the Plant Management Work in accordance with subsection (b) above by [DATE], 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 any funds in excess of [\$X APPRAISED VALUE OF TV5 LESS AMOUNT RECEIVED FROM WASTEWATER FUNDS] with the Trust on a 50-50 basis. 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. Approval by Town Council and Trust Board of Directors. By the signatures below, the Town and the Trust represent to the others 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

