

**Draft #3**

Exhibit A

**Pending Review**

**July 17, 2008**

**Tidewater Conservation Foundation and Tidewater, LLC  
Mitigation Plan**

**Introduction**

This Plan contains the terms for a proposed agreement between the Tidewater Conservation Foundation (“TCF”) and Tidewater, LLC (collaboratively “Tidewater Management”); and the Falmouth Town Council (the “Council”). The terms provide for actions to be taken by Tidewater Management in exchange for the Council’s approval of an amendment to the Tidewater LLC, Master Plan. The Council’s approval of the Amendment will permit the construction of a regional learning center (the “Learning Center”) serving the Farm. The four basic components of mitigation offered by Tidewater Management include:

- (a) ~~a financial commitment of \$50,000 from TCF to the Town of Falmouth in support of property acquisition for the Greening of Falmouth, the addition of a 5.9 acre parcel to the Easement. This parcel, currently approved for construction of a single family home, is contiguous with the property currently identified as the “Protected Property”. The parcel will be maintained as open space and substantially exceeds the .6 of an acre required for the construction of the Learning Center.~~
- (b) **the development of four trail systems** providing a significant increase in public access to both the Protected Property and surrounding areas;
- (c) **a redefinition and expansion of the land at Tidewater Farm** to be controlled consistent with the Protected Property requirements; and
- (d) **a clarification of the permitted uses and activities** within the Protected Property

**Detailed Description**

**1. Addition of 5.9-acre parcel to the Easement The Greening of Falmouth Open Space Project**

~~Over a period of ten (10) years, TCF will assist in funding the Town’s activities in support of Open Space implementation. TCF working collaboratively with the Open Space Subcommittee, such funds shall be directed towards and in support of efforts outside of the existing Conservation Easement, but having a purpose consistent with the activities supported at Tidewater Farm. This may include, but is not necessarily limited to, additional land acquisition to be characterized as part of the Protected Property, trail development and/or sustainable agricultural activities. place into the Conservation Easement an additional 5.9 acres of land that is currently located outside of the Tidewater Farm footprint. Directly abutting the Farm, this land has an appraised value of \$275,000. Payment of this commitment will be secured and guaranteed by Tidewater LLC. Inclusion of this parcel will permit additional trail development and ensure environmental protection for what currently is an approved single family building lot.~~

From a mitigation perspective, this financial commitment will accomplish the following: This addition is a major factor based on the following:

from a mitigation perspective,

(a) identification and acquisition of additional land TCF is providing an additional 5.9 acres in exchange for the .6 acre footprint requirement for constructing the Learning Center;

(b) the potential the parcel is a key for acquiring key connections for connector for additional trail system development the trail system;

(c) public trail access will be provided to an area currently housing a natural habitat supporting an avian and salt marsh resource; and

(c) a collaborative relationship furthering the underlying purposes of the Conservation Easement.

an additional and unique site for marine and environmental research opportunities will be preserved.

**Estimated value of the raw land: \$50275,000; Estimated value of the additional open space preservation: TBD**

## **2. Trails**

TCF and Tidewater LLC will work in collaboration with Portland Trails to establish and maintain 4 new trail systems located both within and outside the Protected Property. The intent is to provide access to the public as well as to connect the Farm to other key areas of Falmouth. This trail system will provide access along the shore of the Presumpscot River estuary, will be ideal for nature study, exercise and serve as a connector for the working farm areas with public transportation and parking available at Clearwater Drive. The trails will also provide pedestrian access from Tidewater directly to Route 1 sidewalks and future access to the Town of Falmouth's Pine Grove trail network. With the exception of the Village Park Connection, Portland Trails has agreed to hold the necessary easements. The Village Park Connection easement discussed below will be arranged through with the Town of Falmouth. Under the direction of TCF Board member, Caleb Hemphill, Portland Trails and TCF are addressing and allocating responsibility for trail development costs, long-term trail maintenance and, ultimately, the requirements for public access. The four trials are illustrated below and described as follows:

### **• Brickyard Point Trail**

This trail starts at the Learning Center and will provide access over the Scittery Gussett creek to the Brickyard Point property recently acquired by Portland Trails. A pedestrian bridge is planned to be constructed over the creek to provide year-round access. The trail will require the grant of an easement by TCF to Portland Trails. In addition to an easement, TCF will donate in-kind services to assist Portland Trails with the development and maintenance of the access trail.

**Estimated Value: \$25,000; Easement donation: \$20,000; Materials: None; TCF In-Kind Services: \$5,000**

### **• The Tidewater Basin Estuary Trail**

This trail also starts at the Learning Center and will provide a scenic path along the salt marsh and a trail through the wooded conservation land leading to the traffic circle on Clearwater Drive where parking and bus transportation are available. The trail will provide scenic overviews of the estuary and an approximately 100 foot pedestrian bridge will be installed by

TCF and Portland Trails to cross a section of salt marsh which will allow an unusual opportunity for nature study.  
**Estimated Value: \$50,000; Easement donation: \$30,000; Materials: Wetland crossing materials - \$10,000 (charitable donations to TCF from community businesses and individuals); TCF In-Kind Services: \$10,000**

- **Clearwater Drive to Route 1/Pine Grove Connection**

This trail section will be developed cooperatively between TCF, Portland Trails, FTAC and Princeton Properties. The trail will start at the traffic circle on Clearwater Drive and provide a trail connection through the Protected Property, and along an edge of the Clearwater Estates/Princeton Properties, a section adjacent to the Portland Water District easement and out to the sidewalk on Route 1 across from Pine Grove.

**Estimated Value: \$7,500; Easement donation: \$3,000; Materials: \$500; TCF In-Kind Services: \$4,000**

- **Village Park Connection**

Starting at the Learning Center, this trail will provide a scenic path through the agricultural and orchard areas that are planned between the residential development and the TCF Conservation areas. The trail is planned to cross Farm Gate Road and provide a trail connection to the Falmouth Village Park and Family Ice areas.

**Estimated Value: \$5,000; Easement donation: \$1,000; Materials: \$1,000; TCF In-Kind Services: \$3,000**

### **3. Land Use Plan for Open Space Preservation**

A key component identified by all interested stakeholders is to balance development within the Protected Property while ensuring permitted activities and uses are consistent with maintaining open space and sustainable agriculture. In addition to agriculture, other permitted uses in the area include education and the arts. TCF will take the following steps to maintain the open space while ensuring the economic sustainability of the area:

- TCF will construct the Learning Center consistent with the parameters provided for. Construction shall begin upon completion of a capital campaign raising all funds necessary to cover construction costs. It is estimated this step will be completed not later than the Spring of 2009. TCF's option to construct the Learning Center will expire five years from the date of the Council's approval of the amendment to the Master Plan.
- With the exception of small outbuildings necessary to support permissible uses within the Protected Property, no further new construction will occur. Such buildings shall not exceed 12 feet in height.
- As part of its management obligations, TCF has begun a strategic planning process for Tidewater Farm and the Protected Property, the Tidewater Conservation Foundation 2008 Strategic Plan. The initial draft of the Strategic Plan describes and provides for the implementation of intended uses and activities at the Farm in 3 phases. The phases include the development and establishment of collaborative partnerships that will address environmental protection, agricultural research and site specific education. Implementation will be done in conjunction with these strategic partners and monitored by TCF. The focus will continue to emphasize agricultural and demonstration projects the results of which can be applied in other areas within the Town of Falmouth and outlying communities.

- Renovation of existing buildings shall be consistent with the historic nature and the character of the property. Improvements to existing buildings shall not exceed an expansion of more than 15% of the current total gross square footage of the structures.

## **5. Protected Property**

In 2005, the Town and Tidewater LLC established two principal areas within Tidewater Farm, TF1 and TF2. TF1 was defined as the Protected Property and subject to the uses provided for in the Easement and a related Management Plan. Adjacent to the Protected Property were (and continue to exist) two buildings in the area designated as TF2. The original concept provided for with respect to TF2 and its buildings ~~was improvements and maintenance that they would be used and maintained~~ to support the activities and uses identified as permissible in the Protected Property. In order to ensure consistency in ~~use and~~ administration, Tidewater LLC and TCF will take the following steps:

- **Tidewater LLC Donation of TF2 to Tidewater Conservation Foundation**

Tidewater, LLC will sign a Letter of Intent providing for the donation of the TF2 parcel and buildings to TCF upon issuance of a building permit for the Learning Center. Upon donation, TCF will assume the obligations of Tidewater, LLC. This transfer will occur upon a pre-determined date as agreed to by the parties with all the rights and responsibilities assumed by TCF.

### **Estimated Value: Charitable Donation**

- **Definition of Protected Property**

The definition of Protected Property will expand to include the TF2 area of the Farm. This change will ensure consistent administration of the two areas by TCF supporting the long range vision for Tidewater Farm. The TF1 and TF2 areas will continue to be delineated separately. This will allow TCF and the Council to monitor the activities and approval of uses involving the buildings separately from the open space. The Learning Center will be identified as included within the TF2 area.