

# Land for Maine's Future Program

## Proposal Workbook **Board Adopted Policy & Guidelines**



June 2017

[www.maine.gov/dacf/lmf](http://www.maine.gov/dacf/lmf)

Maine Department of Agriculture, Conservation and Forestry  
207-287-7576



# About This Workbook

This is the tenth edition of the Proposal Workbook since the Land for Maine's Future Board initiated its grants program in 1988. The Workbook reflects the previous work, experience and public input since the program began in 1987. This Workbook has been revised, with the goal of streamlining to make it easier for applicants preparing proposals.

This workbook contains four sections plus appendices.

**Section I** contains vital information on a wide range of Land for Maine's Future topics. Applicants should read this section first; it provides information on the Board's policies, process and the Program's background.

**Section II** is for projects appropriate for the "Conservation and Recreation Land" category, which includes lands of statewide, regional, and local significance. This is the category under which most proposals will fall. For this funding round, Farmland protection projects should apply using the Conservation & Recreation Criteria and select Farm & Open Space as their Major Land Asset.

**Section III** is for "Water Access" projects appropriate for the Public Access to Maine Waters Fund. Managed by the Board, this Fund is generally earmarked for smaller parcels that provide water access for boating, fishing and swimming.

**Appendices** include important background information for projects.

The Proposal Workbook is available in Portable Document Format (PDF). It can be downloaded from the Land for Maine's Future website ([www.maine.gov/dacf/lmf](http://www.maine.gov/dacf/lmf)).

### **PROPOSAL DUE DATE:**

**All proposals must be complete and received by LMF no later than 5:00 p.m. September 1, 2017.**

### **PROPOSAL SUBMISSION:**

**Submit an electronic PDF and eleven printed copies of your proposal to:**

**Land for Maine's Future  
22 SHS / 18 Elkins Ln. / Harlow Building  
Augusta, ME 04333-0022**

If your proposal includes a deer wintering area and you want to qualify for the extra deer wintering area points, please submit thirteen copies of the proposal.

# Acknowledgments

The Land for Maine's Future Board wishes to acknowledge key individuals and organizations that assisted in the development and production of this edition of the *Land for Maine's Future Program Proposal Workbook*.

Special thanks go to all of the Board members, especially those private citizen members who give so generously of their time and knowledge to make the Land for Maine's Future Program an enormous success. Their tireless work and attendance at many meetings are reflected in the outstanding public lands funded through the Program.

In addition to Board members, hundreds of Maine citizens and organizations provided essential input to the earlier versions of the Proposal Workbook as well as Board policies and goals that provide the foundation of this edition.

State agencies also provided input. The staff of the Departments of Agriculture, Conservation and Forestry (DACF), Inland Fisheries and Wildlife (MDIFW), and Marine Resources (DMR) contributed significantly.

Finally, thanks goes to the staff of the Land for Maine's Future Program who have collected and kept track of public comments, applicant feedback and Board concerns, and drawn from their years of experience to help produce this new edition of the Proposal Workbook.

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# Land for Maine's Future Workbook

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# Section I

## The Land for Maine's Future Board & Program

## Land for Maine's Future Board & Staff

### Public Members

Fred W. Bucklin  
Appleton, Maine

Robert L. Meyers  
Bath, Maine

Harry K. Ricker  
Turner, Maine

Lisa Turner  
Freeport, Maine

Brad Moll  
Yarmouth, Maine

Vacant

### State Agency Members

Patrick Keliher, Commissioner  
Department Marine Resources  
State House Station #21  
Augusta, Maine 04333

Walter Whitcomb, Commissioner  
Department of Agriculture, Conservation and Forestry  
State House Station #22  
Augusta, Maine 04333

Chandler Woodcock, Commissioner  
Dept. Inland Fisheries & Wildlife  
State House Station #41  
Augusta, Maine 04333

### Program Staff

Sarah Demers, Director  
R. Collin Therrien, Senior Planner  
Tom Miragliuolo, Senior Planner  
Vacant, Senior Planner



# Legislative & Policy Objectives

The Land for Maine's Future Fund is managed by a 9 member board, of which six are private citizens and three are state agency commissioners. The program staff is responsible for providing support for Board activities relating to acquisitions.

Recent Policy Objectives through the existing LMF Bonds include:

1. **\$5,000,000 in new funding for LMF projects** was approved by voters in November, 2012.

In this bond, unlike with previous bonds, funds were not earmarked for specific purposes, rather all the purposes for the funds were listed together in the legislation and in the ballot question. These include the following:

Acquisition of land and interest in land for conservation; water access; wildlife or fish habitat including deer wintering areas; outdoor recreation, including hunting and fishing; and working farmland preservation and working waterfront preservation.

The statute authorizing these funds (Ch. 696, Public Laws of 2011) specifies that projects that protect deer wintering areas (DWA) are considered to have special value and must receive preferential consideration during scoring of applications.

Priority DWA are of "at least 500 acres or contiguous with existing conservation land so that the combined acreage constitutes at least 500 acres, have been historically used by deer at some point since 1950 and are capable of providing shelter for deer on the effective date of the Act or within 20 years."

See Appendix J for a copy of Chapter 696, outlining these requirements.

*Chapter 696 also requires that state land acquired with those funds be managed by DACF subject to a protocol approved by MDIFW.*

2. The Legislature has directed the LMF Board to give preference "to acquisitions ... that achieve benefits for multiple towns and that address regional conservation needs including public recreational access, wildlife, open space or farmland." Since 1999 sites of local and regional significance may be considered and payments may be made directly to cooperating entities (private nonprofit organizations, municipal conservation commissions, local governments, or federal agencies). When title is held by a cooperating entity, they enter into a project agreement that is enforceable by the State to ensure the lands are used for the purposes for which they were acquired.

# Needs Assessment

The Board conducted its original needs assessment in 1988, which consisted of public participation meetings and the establishment of priority land categories, including the legislatively mandated land types found in the LMF statute. This list created the foundation of the Land for Maine's Future Program's detailed land classification types:

- Recreational Lands
- Water Access Lands
- Lands Supporting Vital Ecological or Conservation Functions and Values
- Rare, Threatened, or Endangered Natural Communities, Plants, or Wildlife Habitat
- Areas of Scenic Interest and Prime Physical Features
- Farmland and Open Space

In 1996, Governor King established the Land Acquisition Priorities Advisory Committee (LAPAC). This committee performed a new needs assessment and its recommendations form the basis for some of the scoring process, most notably the "Additional Land Assets" found in the Conservation and Recreation Lands Scoring System on page 20 of this workbook.

Since then, the program has updated its criteria to keep current with emerging needs, public input and legislative action.

As part of its preparation for issuing this workbook, the current LMF Board reviewed the LMF statutory requirements, LMF bond requirements and LAPAC report to develop the priorities and scoring system described herein.

# Board Policies & Guidelines

The Land for Maine's Future Board follows well-established policies and guidelines as it conducts its business. The following is a brief summary of the most important of these. Please contact LMF staff with any questions. **Please note that the Board has adopted a new proposal review process which is outlined in the section titled Board Process for Reviewing Proposals.**

**Primary Purpose of the Program** - The primary purposes of the LMF Program is to conserve land in its undeveloped state, providing public recreational water access, working waterfront protection, and continuing productive farms and farmlands.

**Willing Sellers Only** - The Board requires proposals to include a signed consent from the owner(s) of land being proposed for consideration.

**Matching Funds** - A proposal is expected to have a match greater than or equal to 50% of the total eligible project costs. This means that for every \$1 of LMF funds expended, there must be at least \$1 of match funds. The Board considers the level of matching funds in evaluating projects and in making funding allocations.

Matching funds may include stewardship fund contributions. Eligible stewardship fund contributions must equal not more than 20% of the appraised value of the acquired land, and must be held in a designated stewardship account of the state agency or cooperating entity holding title to the land. Use of stewardship funds as match requires the recipient of LMF funds to make a firm commitment of these funds in a form acceptable to the Board.

More information on matching funds can be found in Appendix D – Form for Proposal Budget.

**Purchase Price Determined by Appraised Value** - Board policy requires that the fair market value of a property or a conservation easement is determined through a qualified independent appraisal and that the acquisition price reflects the appraised value. Appraisals should follow the Appraisal Standards found in Appendix F.

Applicants may use a realtor's opinion of value as a means of establishing a value for the purposes of applying for LMF funds. Once a proposal is selected by the Board as a finalist, an appraisal must be conducted in accordance with the LMF appraisal standards described in Appendix F. The Board will typically require appraisals with a valuation date no more than a year old at the time of the Appraisal Oversight Committee's review, unless an executed purchase and sales agreement is in place with a value based on the appraisal. In all instances, appraisals for LMF funded properties must be reviewed and approved by the LMF Appraisal Oversight Committee.

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**Purchases Above Appraised Value Strongly Discouraged** - The Board's basic rule is that it will not participate in a transaction where the purchase price exceeds fair market value based on an independent appraisal that is approved by the Appraisal Oversight Committee and accepted by the Board.

However, it is recognized that the market will, on rare occasion, offer opportunities that may require exceptions to the basic rule. **Applicants should be aware that this exception is seldom invoked and consult with program staff prior to making any commitments that would require an exception.**

**Board Allocation of Project Funding** - The Board's allocation is considered preliminary until the actual value is determined by an LMF Board approved appraisal. The value determined by this appraisal, and other project costs, will guide the amount of funds LMF contributes to the project. In the event that the project changes in scope or size, the Board's approval of funding may differ from the original allocation. Funding awards are at the approval of the LMF Board. Awards are subject to the availability of funds and subject to state budget and finance procedures.

**Project Adjustments** - The Director and Project Manager must be notified if, at any point prior to closing, a proposal selected as a project finalist has adjustments to its scope and size from what was accepted for funding by the LMF Board. Staff will review and determine what adjustments are appropriate or if the proposed changes require the project to return to the LMF Board for approval.

Project funding may be reduced from the original allocation amount based upon the impact of the project change to the attributes of the original project.

Proposals must return to the LMF Board for reconsideration when:

1. Reductions in size

- Reductions in land are more than 10% of the original total project land area. This includes instances in multi parcel projects
- A parcel is removed from a multi-parcel project.

2. Reductions in scope

If changes in project scope substantially affect public access, recreational opportunities, uses of the land, ecological or conservation attributes.

3. Change in project parcels

Substitute parcels must be reviewed by the Scoring Committee and require Board approval.

**Reserved Rights and Title Issues** - All reserved rights and issues affecting the property's title encountered during the due diligence process must be reviewed by the Project Manager and Director, including changes to conservation easement terms, mineral ownership, reserved rights,

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etc. to determine if these could materially affect the conservation values of the property and the investment of public funds.

**Providing Public Recreational Access** - Public recreational access is a core purpose of the Land for Maine's Future Program. All lands acquired with LMF funding are open to the public. Exceptions include farms and commercial working waterfronts, where public access may not be feasible or desirable. LMF may make grants of up to 5% of the appraised value of land acquired to develop public access facilities, including trails, boat launching sites, parking, camping and picnicking facilities. See Appendix L for more information.

**Hunting, Fishing & Trapping** – Pursuant to the terms of the respective 2010 and 2012 bonds, hunting, fishing, trapping and public access may not be prohibited on conservation and recreation lands acquired with bond proceeds, except to the extent of applicable state, local and federal laws and regulations. Exceptions include farms and commercial working waterfront properties, or for protection of critical natural resources.

**Discriminatory Fees and Access** – Public access may not be limited in any way based on the location of a visitor's residence. If entrance or usage fees are established, they must be uniform for all visitors. Generally, the establishment of fees must be allowed in the Project Agreement and approved by the Designated State Agency.

**Business Plan Development for Farmland Projects** - When development rights on a farm are purchased, LMF may make grants of up to 5% for business plan development and implementation.

**Environmental Concerns** – Properties that receive LMF funds must be free from all environmental concerns at the time of closing. Prior to closing, all projects must submit a Phase I Environmental Site Assessment (ESA) report to LMF dated within 1 year of closing. The ESA report must include evidence of a records check, site visit(s) documenting uses and conditions of the property with pictures that show ground conditions (snow on the ground is not acceptable) and interviews with persons familiar with the property. Debris, trash, tires or other forms of refuse or encroachments from abutting lands identified in the ESA report must be removed from the property, with documentation provided to LMF staff prior to the release of LMF funds.

Buildings are generally not allowed on LMF properties, except under specific circumstances. Contact LMF staff if you have questions about existing buildings on the property.

For properties pre-acquired for State of Maine ownership, (fee & easement), an ESA may not be necessary. Contact LMF staff with questions.

**Public Notice of Intent to Purchase** - The Board publishes a notice of a vote to acquire property 10 days in advance of the meeting. Notices are placed in a general circulation newspaper and a local newspaper describing the property to be voted on and inviting all members of the public to submit comments in writing or to appear before the Board with comments about the proposed acquisition.

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**Public Participation Welcome at All Meetings** - All Board meetings are open to the public and include opportunity for public input. Meetings are publicly announced well in advance on the LMF website, DACF website, and State of Maine public meetings calendar. Also when projects come before the Board for their final allocation, public notices are printed in applicable newspapers and on the LMF website.

**Municipal and County Approval** - Municipal approval is required for LMF funding when property interests representing more than 1% of a municipality's state valuation are considered for acquisition. Board policy is to encourage applicants to seek municipal input on all acquisitions. Within unorganized territories, approval of the appropriate county commissioners is required if the land value of a proposed project constitutes more than 1% of the state valuation within that county. The year of the appraisal will determine the year of the municipal valuation used.

**No Fee Acquisition of Lands for Timber Production** - By statute, LMF is prohibited from funding the fee acquisition of land for which the primary use value has been or will continue to be commercially harvested or harvestable forest land. This does not prohibit the acquisition of conservation easements in which the rights to harvest timber are retained by the land owner.

**Addressing Land and Easement Management Costs** - The Board requires all applicants to address stewardship and management costs as part of a proposal. LMF statute requires that applicants provide estimates of the management costs associated with the project over the first 10 years of ownership.

**Press Releases** - All press releases or media advisories announcing any phase of an acquisition with LMF funds must be coordinated with the LMF staff. Media coverage is encouraged.

**LMF Signage** - Applicants are responsible for ensuring appropriate signage acknowledging LMF support is located and maintained on all conserved properties. LMF signs will be provided at closing.

**Project Ownership** - As part of the proposal, the applicant must specify how the project's ownership will be held.

When a project involves an easement that is to be held by a local entity (a "cooperating entity", per LMF statute, includes land trusts and municipalities), language should typically be added to the easement giving the State of Maine third party enforcement rights on the terms of the easement. If this is not done, a Project Agreement between the cooperating entity and the State of Maine will define the terms of the project and be recorded with the easement (see Appendix G). Because all projects have differences, the description of project goals and management expectations may change from project to project.

Similarly, where a project is owned in fee by a cooperating entity, a Project Agreement (see Appendix G) is signed between the entity and the State of Maine to define the terms of the project

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and recorded with the deed. The deed must also include reference to the fact that the parcel has been acquired as part of an LMF funded project.

**Pre-Acquired Properties** - Lands acquired within 2 years prior to the date of the project proposal deadline may be considered for reimbursement when the pre-acquisition was conducted on behalf of the sponsoring agency **or** the sponsoring agency was aware of and supported the pre-acquisition. LMF contribution will be no more than the Board approved amount, not to exceed the actual purchase price or appraised value whichever is less. Any appraised value approved by the LMF Board in excess of the purchase price may be used as match. All other LMF due diligence and policy requirements apply to pre-acquired properties. Only in rare circumstances will the Board consider reimbursement for a pre-acquired easement. Contact LMF staff with questions.

**Board Process for Reviewing Proposals** - The Board establishes the deadline by which proposals must be received. A potential applicant must be in contact with the appropriate sponsoring state agency no less than eight weeks in advance of this deadline. A copy of the proposal must be sent to the sponsoring agency.

The process of proposal review includes the following:

- LMF staff review proposals to determine whether they are complete and to identify problems.
- LMF staff scores proposals.
- Board reviews proposals and staff scores.
- Board hears presentations from applicants and provides adjusted scores to staff.
- Board meets to review their adjusted scores, consider Other Board Considerations (see page 12), and makes final adjustments to scores.
- The Board enters executive session to select finalists and makes preliminary funding allocations.
- The Board then votes in a public session to select finalists.

# Threshold Criteria

The Land for Maine's Future Board follows established policies and guidelines when it makes decisions on which projects to fund. These "threshold criteria" supplement policies and guidelines that are found in Section I on page 10. Threshold refers to the Board's expectation that all proposals meet the following minimum requirements. In rare cases, a proposal that does not meet these criteria will be considered.

**Willing Seller:** The owner(s) has agreed in writing to allow the sponsoring agency or cooperating entity to consider the purchase of his/her property.

**Adequate Title:** Clear title is required. If clear title is not available at the time of application then the applicant is required to obtain clear title prior to closing.

**Appraised Value:** The owner is willing to accept an offer at or below fair market value based on an appraisal that conforms to Land for Maine's Future appraisal standards (see Appendix F). The appraisal valuation date should be less than a year old at the time of the Appraisal Oversight Committee review, unless an executed purchase and sales agreement is in place with a value based on the appraisal.

**Match:** A proposal is expected to have matching funds greater than or equal to 50% of the total eligible project costs. This means that for every \$1 of LMF funds, there must be \$1 of match value. Of the total match amount, the ratios of match type must be the following:

- no more than 30% of the match can be the value of services customarily associated with land acquisition (e.g. appraisal, survey, title work, legal work, ecological and archeological inventory); and
- 70% must be in the form of land, cash or other tangible assets. It is the responsibility of the applicant to document the value to be used as match via appraisal. For a match parcel to qualify as match the sponsoring state agency must hold the real estate interest or, if the interest is held by a cooperating entity, the interest must be covered by a project agreement with the sponsoring state agency.

For example, if a proposed property has an estimated total project cost of \$200,000 (including land and all other eligible costs), it would be eligible for up to \$100,000 in LMF funds, and there would have to be a match of at least \$100,000. Of this \$100,000 match, up to 30% or \$30,000 could be services needed for the land acquisition, and at least 70% or \$70,000 would have to be in donated land value, cash, or other tangible asset.



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The value of lands or interest in lands acquired within 2 years of the date of project proposal may be used as tangible match when the property interests have a direct relationship to the project.

Contributions to a dedicated stewardship/management endowment of the state agency or cooperating entity that will hold title (or easement) may be considered as tangible match. Match requirements allow use of these contributions with a statutorily cap of 20% of the appraised value of the land to be acquired. Access improvements may be considered as tangible assets for match purposes with a cap at 5% of appraised land value. Engineering, permitting, and wetland delineation can also be considered as match under the 5% access improvement allowance. To qualify as match, stewardship commitments to the endowment of a cooperating entity must be documented by applicant in a manner acceptable to the Board.

With the exception of the caps on the stewardship endowment and access improvement, all other match percentages are calculated based on total project costs, which are the combined land or easement cost, plus all other costs customarily associated with the acquisition of land or interest in land.

**Ownership & Sponsorship:** An applicant is required to have sponsorship of a State agency (Department of Inland Fisheries & Wildlife, Department of Agriculture, Conservation and Forestry, Maine Historic Preservation Commission, or the Department of Marine Resources). For projects of regional or local significance applicants must have an agreement with the sponsor regarding ownership and management. To accomplish this, applicants must contact the appropriate sponsoring state agency no less than eight weeks in advance of submitting a proposal.

**Applicant's Capacity:** An applicant must demonstrate the capacity to undertake the project with a reasonable prospect of bringing it to a successful conclusion. Non-profit applicants must submit their most recent financial audit if one exists and the most recent financial statement that represents the organization's current financial condition. The Board may consider all relevant factors including without limitation: organizational debt, fund raising ability, past land conservation activity and transactions, track record with LMF projects, organizational history, scope of conservation vision, and evidence of success in building and sustaining land protection campaigns.

In addition, the Board will consider whether or not the proposed title or easement holder has the ability, experience, and resources to manage the property appropriately.

**Relationship to Local Comprehensive Planning Efforts:** For locally significant projects, the project must be consistent with an adopted comprehensive plan (if one exists) meeting the standards of the Growth Management Act (30-A MRSA sections 4301-4349) with evidence that the municipality had adopted strategies to implement the plan. For strongest Board consideration, a project should be an explicit component of a larger integrated effort by the applicant and municipality to achieve the conservation, recreation, and other goals of the comprehensive plan.

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A project proposed within a locally designated growth area must be able to demonstrate that the project doesn't diminish the intent of the designation.

### Other Board Considerations:

- Does the property increase geographic distribution of LMF investments?
- Does the property provide benefit to people from multiple towns and/or address regional conservation needs?
- Does the property serve as an anchor parcel for conservation in an area of the state without existing conservation lands?
- Does the budget include >50% in matching funds?
- Are >50% of matching funds secured (in hand)?
- Does the relative cost of the property (LMF contribution or estimated value?) align with the values offered by the property? (a good bang for the buck?)
- Will the property require an average or low level of ongoing management needs? In the case of conservation easements, sufficient matching funds are needed to monitor and enforce the easement. The Board will evaluate whether the proposal includes an adequate contribution, as identified by the sponsoring state agency, to the State's conservation stewardship or easement monitoring endowment fund.
- Does the applicant have a good track record of completing projects to LMF standards or is this the applicant's first application to the LMF program?
- Is this a new applicant?
- Does applicant demonstrate financial & staff capacity to adequately steward the property?
- Does the project design result in a good investment of public funds and a good resource for the public?
- Does the applicant demonstrate that the property is under threat from losing public access or conversion to a use that would minimize the value of the resources present?
- Does the project have a high level of readiness? (3 or more steps completed) and minimal complicating factors (access, sub-division, outstanding mineral rights, structures, etc.)

These items include:

Current appraisal (acceptable for Board review)

Final easement or fee acquisition conditions completed

Cost Share commitment established

Signed option or purchase and sales agreement

Pre-acquired and held by a third party in coordination with the sponsoring state agency.

Readiness scale.

Level 1 - 4 items completed

Level 2 - 3 items completed

Level 3 - 2 items completed

Level 4 - 1 item completed

Level 5 - 0 items completed

# Project Requirements

**Completion Requirements for Approved Projects** - Once the Board selects finalists, a series of due diligence steps (Appendix N) must be completed to the satisfaction of the Board. In addition to these steps, the Board may place specific conditions which must be addressed before LMF funds are released.

Applicants are responsible for the following:

- Appraisal to determine fair market value. All appraisals for acquisition of fee or easement must be reviewed and accepted by the Appraisal Oversight Committee and its recommendation must be approved by the full Board. See appraisal standards in Appendix F.
- If acquisition involves easement purchase, easement is drafted in a form consistent with the Model Easement (prior to appraisal). See Appendix H Guidance for Working Forest Easements and Appendix I Guidance for Agricultural Conservation Easements.
- Applicant prepares draft Purchase and Sales Contract with all appurtenant conditions, to be reviewed and approved by LMF staff.
- Elected officials approve (organized townships) if project represents >1% of state valuation or County Commissioners approve (unorganized townships) if >1% of county valuation.
- LMF will publish public notice of intent to purchase and schedule Board vote, for the purpose of receiving public comment.
- Complete title work, including title insurance. The property may not be encumbered by any lien, mortgage or other obligation that in the Board's exclusive judgment could interfere with the conservation purposes of the project. This includes outstanding mineral rights.
- Applicant conducts Phase I Environmental Site Assessment (ESA). The ESA should be scheduled so that it is no more than 1 year old at the time of release of LMF funds. ESA reports older than one year will need an update.
- Complete an acceptable boundary survey and provide GIS-compatible electronic version of survey (so called "Shape" or ".SHP" files).
- Based on legal interest to be held, LMF staff, applicant and DSA representative develop the LMF project agreement.
- Documentation of matching funds provided by applicant as presented in the proposal (NOTE: if a stewardship endowment has been included as match, this documentation must include a letter from the applicant's governing body that this commitment has been fulfilled);
- Evidence of Corporate Authority to accept LMF funds (if other than state agency).
- Certificate of good Corporate Standing (if non-governmental entity).
- Vendor Form to facilitate payment to recipient of LMF funds.
- Joint Ownership Release (if needed)
- Close on project.
- Typically after closing, ecological and archeological surveys are undertaken to assess any features of the property that may require special management.

# List of Contacts/Cooperating Entities

As an applicant begins to develop a proposal, he/she may seek information sources, conservation partners, and the required sponsorship from State agencies associated with the acquisition and management of public lands. The organizations listed below will assist you in this effort. If you need any further guidance, contact the Land for Maine's Future Program at (207) 287-7576.

### Dept. of Agriculture, Conservation and Forestry

#### Land for Maine's Future staff

Sarah Demers, Director	(207) 287-7576	<a href="mailto:sarah.demers@maine.gov">sarah.demers@maine.gov</a>
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#### Conservation & Recreation Lands

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#### Conservation & Recreation - Farmland and Open Space

Stephanie Gilbert  
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#### Water Access

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### **Maine Natural Areas Program**

Molly Docherty  
Maine Natural Areas Program  
93 State House Station  
Augusta, Maine 04333  
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### **Maine Dept. of Inland Fisheries & Wildlife**

Bethany Atkins  
41 State House Station  
Augusta, Maine 04333  
(207) 287-5878  
[bethany.atkins@maine.gov](mailto:bethany.atkins@maine.gov)

### **Maine Dept. of Marine Resources**

Deirdre Gilbert  
21 State House Station  
Augusta, Maine 04333  
(207) 624-6576  
[deirdre.gilbert@maine.gov](mailto:deirdre.gilbert@maine.gov)

### **Maine Historic Preservation Commission**

Arthur Spiess  
65 State House Station  
Augusta, Maine 04333  
(207) 287-2132  
[arthur.spiess@maine.gov](mailto:arthur.spiess@maine.gov)

J. N. Leith Smith  
65 State House Station  
Augusta, Maine 04333  
(207) 287-2132  
[leith.smith@maine.gov](mailto:leith.smith@maine.gov)

### **Land Trusts and Non-Profit Organizations**

For the name of the land trust nearest your property, please contact the Maine Land Trust Network ([www.mltn.org](http://www.mltn.org)) or the Land for Maine's Future Program.

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# **Section II**

## **Conservation & Recreation Land**

### Overview

The Land for Maine's Future Board has established a process for the public to nominate lands for acquisition in a broad category called **Conservation and Recreation Lands**. Most proposals will fall under this category.

For this funding round, Farmland protection projects should apply using the Conservation & Recreation Criteria and select Farm & Open Space as their Major Land Asset. See Appendix B and I for more information about Farmland projects.

There is a separate expedited process for proposals for projects eligible for the Public Access to Maine Waters Fund. These proposals may be submitted at any time. See Section III for information on the process for this category.

If you are interested in proposing a working waterfront project contact Deirdre Gilbert, Department of Marine Resources, (207) 624-6576, [deidre.gilbert@maine.gov](mailto:deidre.gilbert@maine.gov).

### Proposal Process

This section provides you with all the information you need to apply for funds in the Conservation and Recreation Lands category (including farmland and open space). If you have any questions about your proposal or the Land for Maine's Future process, please call (207) 287-7576 and speak with a member of our staff.

#### Proposal Inquiry Forms

The forms (found in Appendixes A and B) may be submitted at any time. It provides the Land for Maine's Future Program staff with information they need to determine if a project meets established threshold criteria.

#### Proposal Requirements for Conservation and Recreation Lands

**Proposal Period** - Proposals must be received by the closing date of a proposal period. For a proposal to be complete, it must have a State Agency sponsor (see page 14 for agency contact information). You must contact the appropriate sponsoring agency to discuss your proposal and obtain their sponsorship prior to submitting the proposal. A potential applicant must be in contact



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with the appropriate sponsoring state agency no less than eight weeks in advance of the deadline. A copy of the proposal must be sent to the sponsoring agency.

Proposals must be complete with responses to all the numbered subject headings found in the **Format and Instruction Section** and any additional information listed in this section. Incomplete proposals will be returned for additional information and may not be considered further at the Board's discretion.

**Proposals must be must be received by LMF no later than 5 p.m. September 1, 2017.**

All applicants will be contacted and notified of the status of their proposal after final Board decisions.

## Scoring System for Evaluating Conservation and Recreation Land Proposals

The scoring system assigns points according to the relative value of eleven criteria associated with an acquisition proposal. These are:

	<b>Maximum Points</b>
<input checked="" type="checkbox"/> Naturalness of the Land	10 points
<input checked="" type="checkbox"/> Accessibility of the Land for its Intended Use	15 points
<input checked="" type="checkbox"/> Proximity to Other Conservation lands/Effort	10 points
<input checked="" type="checkbox"/> Major Land Asset	30 points
<input checked="" type="checkbox"/> Additional Land Assets	25 points
<input checked="" type="checkbox"/> Community/Economic Benefit	5 points
<input checked="" type="checkbox"/> Project Structure (ownership/easement)	<u>5 points</u>
	100 points
<b>BONUS</b>	
<input checked="" type="checkbox"/> Significant Undeveloped Archaeological Sites	5 points
<input checked="" type="checkbox"/> Public Water Supply	5 points
<input checked="" type="checkbox"/> Deer Wintering Area(s)	10 points
<input checked="" type="checkbox"/> Single Exceptional Value	<u>20 points</u>
	40 points
<b>Total Possible Points:</b>	<b>140 points</b>

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## The Scoring System

	<u>Points</u>
1. <b><u>Naturalness of the Land (Maximum Points = 10)</u></b>	
The land has little or no discernible human impact	10
The land has some site disturbance but the disturbance does not negatively impede/affect the intended uses of the property	7-9
In the case of rail-to-trails projects, the site is significantly disturbed but the disturbance does not negatively impede/affect the intended uses of the property	7-9
The land has been significantly disturbed by human activity and restoration (or time) will be required to return the site to a more natural condition	2-6
The property has extensive site disturbance or improvements which will severely impede the use of the property for its intended purposes, or the site does not have a high probability of being successfully restored	0-1
	SCORE _____
2. <b><u>Accessibility of the Land for its Intended Use (Maximum Points = 15)</u></b>	
The property abuts and public access is provided by a public road (municipal, state or US), access to which is not restricted or limited.	13-15
The property is located on all or part of an island, public access to which is by water and there is adequate water depth to land or moor recreational boats, and a public mainland boat launch is identified that provides appropriate boat access.	10-12
The property abuts and will be accessed across adjacent existing conservation land held by the applicant and which is located adjacent to a public way.	8-10
The property abuts and public access is provided by a private road, discontinued road or right-of-way with documented existing public access for all purposes of a public way.	4-7
The property abuts a private road, discontinued road or right-of-way that does not provide access for all purposes of a public way but the Applicant has documented that it has a binding contract to acquire full public access rights to the property from the owners of the lands to be used for access.	1-3
The property abuts a private road, discontinued road or right-of-way that <u>does not</u> provide access for all purposes of a public way.	0

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SCORE \_\_\_\_\_

### 3. Proximity to Other Conservation Lands or Larger Conservation Efforts (Maximum Points = 10)

The project will enhance the connectivity of existing conservation efforts, will address regional conservation needs and has one or more of the following attributes:

- Is identified as part of an adopted strategic conservation plan that addresses regional or statewide conservation needs;
- Is linked to a regional conservation effort to protect open space, recreational opportunities or other natural resource values such as a greenbelt, trail network or river corridor;
- Connects existing conservation lands (state, federal, town, land trust, etc.);
- Is immediately adjacent to existing conservation holdings;
- Is part of a locally adopted comprehensive plan and implementation strategies for the protection of open space, recreation, wildlife habitat and/or rural areas that are consistent with the State's Growth Management Act;
- Serves as a stopping off point on a recognized route such as an "island trail" or "birding trail" that includes other publicly or privately conserved lands.

The lands include more than 4 of the assets noted above:	8 - 10
The lands include 2-4 of the items noted above:	4 - 7
The lands include at least 1 of the items noted above:	1 – 3
The lands include none of the assets noted above:	0

SCORE \_\_\_\_\_

**\*NOTE:** If your project serves as an anchor parcel in an area of the state without existing conservation lands, or increases LMF investments to a part of the state that has had no or minimal investment, please provide a detailed description of how your project will address regional conservation needs and whether the project will serve as a catalyst for additional conservation and recreation opportunities.

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4. **Major Land Asset (Maximum Points = 30)**

The Major Land Asset combines Significance (15 points) with Need (15 points). First, identify the Major Land Asset represented on the property from the list below. Then, determine the relative significance of the resource or recreational activity, in terms of demand from a statewide, regional, or local perspective. Finally, consider the relative need of the resource or recreational activity based on a deficiency determination (i.e., the excess of demand over supply for the resource or recreational activity in that area).

**Major Land Asset & Significance (Maximum Points = 15)**

Recreation lands	5	10	15
Water Access Lands	5	10	15
Lands Supporting Vital Ecological Functions and Values		5	10
15			
Rare, Threatened, or Endangered Plants,	5	10	15
Natural Communities, Wildlife and their habitat	5	10	15
Areas of Scenic Interest and Prime Physical Feature	5	10	15
Farmland and Open Space	5	10	15

**Descriptions of Significance Categories:**

State Significance of Major Land Asset 15

The land contains a resource or provides a recreational opportunity that is substantiated as being significant from a state or greater than state perspective.

Significant from a statewide perspective means that the resource is rare and/or exceptional in Maine based on published report(s), database(s), or credible testimony or the recreational activity associated with the parcel will frequently and routinely attract users to travel to the land from across the state or even from out-of-state to the parcel.

Regional Significance of Major Land Asset 10

The land contains a resource or provides a recreational opportunity that is substantiated as being significant from a regional (sub-state) perspective.

Significant from a regional perspective means that the resource is rare and/or exceptional in a region based on published report(s), database(s), or credible testimony, or the recreational opportunity associated with the parcel will frequently and routinely attract users to travel to the land from a

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regional area (that is, from an area that is greater than the area than the town where the property is located).

## Local Significance of Major Land Asset

5

The land contains a resource or provides a recreational opportunity that is substantiated as being significant from a local perspective.

Significant from a local perspective means that the resource is rare and/or exceptional in a town or group of towns based on published report(s), database(s), or credible testimony, or the recreational opportunity associated with the parcel will attract users to travel to the land primarily from a local area (that is, from an area that is primarily encompassed by the towns abutting the town(s) where the land is).

\*Note: while lands of state significance score higher than lands of regional and local significance and lands of regional significance score higher than those of local significance, proposals will be judged only against other proposals of like significance.

## **Need Rating (Maximum Points = 15)**

The need to protect the major land asset addressed in the proposal and substantiated by published report(s), data base(s), or credible testimony as being of:

Great Need due to the relative rarity, threat, or deficiency of the recreational opportunity offered by the land. 11 - 15

Moderate Need due to the relative availability of the resource, the threat to the resource, or the availability of the recreational opportunity offered by the land. 6 - 10

Minor Need due to the fact that the resource or recreational opportunity offered by the land cannot be considered rare, threatened, or deficient due to an abundance of similar resources. 0 - 5

MAJOR LAND ASSET+ SIGNIFICANCE + NEED SCORE \_\_\_\_\_

## 5. **Additional Land Assets (Maximum Points = 25)**

The proposal must identify the additional land assets represented on the property. You may not include your Major Land Asset in this section. See descriptions of these land assets in Appendix E. Maximum score may not exceed 25 points.

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2 points awarded if the land contains an asset that is of minor significance; or the resource, or recreational opportunity of the type offered by the land, because the resource is not considered rare or the recreational opportunity is not considered deficient.

4 points awarded if the land contains an asset that is of moderate significance; or the relative rarity of the resource, or the deficiency of the recreational opportunity of the type offered by the land, is of moderate importance.

6 points awarded if the land contains an asset that is of major significance; or the relative rarity of the resource, or the deficiency of the recreational opportunity of the type offered by the land, is of great importance.

Recreation lands	2	4	6
Water Access Lands	2	4	6
Lands Supporting Vital Ecological Functions and Values		2	4
6 Rare, Threatened, or Endangered Plants, Natural Communities, Wildlife and their habitat	2	4	6
Areas of Scenic Interest and Prime Physical Feature	2	4	6
Farmland and Open Space	2	4	6
Ecological Preserve	2	4	6
River or Trail System	2	4	6
Island or Undeveloped Coastline	2	4	6
Significant Mountain	2	4	6

SCORE \_\_\_\_\_

### 6. Community and Economic Benefit (Maximum Points = 5)

The Board encourages applicants to explicitly describe potential community and economic benefits of the proposed projects. The board seeks to cultivate and support closer working relationships between land conservation efforts, businesses, and the community and will give added consideration to proposals that supply letters of support from a diverse representation of community members. No form letters please.

**Substantial Benefit:**

5

The project will have a **substantial** community and economic benefit that will affect a **large number** of individuals. The proposal has documented that the project has or should preserve or increase community and economic benefits and engages a wide range of community partners.

The project is part of a larger community planning effort such as a downtown redevelopment or mixed-use plan, open space, strategic conservation or

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recreation plan, or comprehensive land use or economic development plan for the region. The proposal describes how the project supports those plans, provides contact information for several community representatives who can provide additional information, and letter(s) of endorsement are included from those responsible for implementation of the plan that discusses how the proposal contributes to the plan's success.

The proposal includes letters of support from community health and recreation organizations, businesses or business and trade organizations, civic and community organizations or local and regional governments that describe how the proposal supports the economy and community.

### **Moderate Benefit:**

3

The project will have a **moderate** community and economic benefit that will affect a **moderate number** of individuals. The proposal has documented that the project has or should preserve or increase community and economic benefits and engages a moderate number of community partners.

The project is part of a larger community planning effort such as a downtown redevelopment or mixed-use plan, open space, strategic conservation or recreation plan, or comprehensive land use or economic development plan for the region. The proposal describes how the project supports those plans, provides contact information for several community representatives who can provide additional information, and letter(s) of endorsement are included from those responsible for implementation of the plan that discusses how the proposal contributes to the plan's success.

The proposal includes letters of support from community health and recreation organizations, businesses or business and trade organizations, civic and community organizations or local and regional governments that describe how the proposal supports the economy and community.

### **Minimal Benefit:**

1

The project will have a **very minor** economic benefit that will affect a **small number** of individuals. The proposal has documented that the project provides limited benefit to community and economic activity, to local businesses, and engages a minimal number of community partners.

The proposal includes very few letters of support from community health and recreation organizations, businesses or business and trade organizations, civic and community organizations or local and regional governments that describe how the proposal supports the economy and community.

SCORE \_\_\_\_\_



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7. **Project Structure (Maximum Points = 5)**

Conservation easement	5
Fee acquisition by qualified organization or State of Maine with municipal letter of support or with municipal matching funds	3
Fee acquisition with no municipal letter or no municipal matching funds	0

SCORE \_\_\_\_\_

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### BONUS:

#### 8. Significant Undeveloped Archeological Site (Maximum Points = 5)

Proposals claiming points for “significant, undeveloped archeological sites” must have a written endorsement from the Maine Historic Preservation Commission that describes the significance of the archeological resources on the site. A proposal for which the “Major Land Asset Category” is based primarily on archeological values must be sponsored by the Commission.

5

#### 9. Public Water Supply (Maximum Points = 5)

Proposed projects that provide a direct benefit to a public water supply may be awarded 5 points if the following criteria are met:

- The protected property is within the direct watershed of a surface water body that is a Community Water System AND a portion of the property is within 2000 feet of the water supply intake;
- Proposal includes a letter of support from the applicable water district; and
- The protection of the property is consistent with and does not conflict with the natural resource conservation and recreation purposes of LMF. In practice this means that the protected land must be available for public recreational use.

5

#### 10. Deer Wintering Area (Maximum Points = 10)

Additional points may be awarded to projects that include conservation of deer wintering areas, with preference given to those areas identified as priority deer wintering areas.

**A. Landowner Commitment: These commitments are required prior to LMF scoring to be eligible for DWA points. If “no” then points cannot be awarded for the DWA category.**

- 1) For fee acquisition projects, is there a letter of commitment from the conservation buyer to enter into a Habitat Management Agreement with MDIFW which outlines management and recreation objectives within the biological extent of the DWA?
- 2) For easement projects, is there a letter of commitment from the landowner(s) stating they will use LMF Working Forest and DWA management easement language, and agree to enter into a Habitat Management Agreement with MDIFW which outlines management and recreation objectives within the biological extent of the DWA?

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- 3) For all applicants, is there a letter of commitment from the landowner that management for Deer Wintering Habitat will be the primary objective within the Biological Deer Wintering Area?
- 4) For fee and easement projects where a portion of the DWA occurs on adjacent conservation lands (defined as held by a qualified holder under the conservation easement statute MRS 33 Ch. 7, §476 et. Seq., or encumbered with an LMF Project Agreement or similar restriction), has the adjacent conservation owner provided a letter of commitment for MDIFW approval of forest management plans and/or Habitat Management Agreement covering the biological extent of the DWA?

Yes/No

**B. Priority Deer Wintering Area determination. (to be considered a priority either 1 or 2 must to be selected in both sections)**

- 1)  The DWA is  $\geq 500$  acres;
- 2)  The DWA and adjacent conservation land is  $\geq 500$  acres; OR
- 3)  The DWA is  $< 500$  acres. DWAs  $< 500$  acres are eligible only if determined as regionally significant by MDIFW.

**AND**

- 1)  The property has been historically used by deer (for wintering) since 1950 which has been documented by MDIFW or multiple sources which can be confirmed, AND is currently providing or capable of providing conforming winter shelter to deer.
- 2)  The property is capable of providing (winter) shelter to deer in 20 years which has been documented by MDIFW or multiple sources which can be confirmed.

**C. Geographic location: Maximum Points Available = 2**

Occurs in a Wildlife Management District (WMD) where deer populations are below the population objective and the currently available DWA goal. WMDs: 1 – 14, 18, 19, 27, 28. See map of WMDs in Appendix K.

\_\_\_\_\_ 2 points

**D. Management Capacity: Maximum Points Available = 1**

Management Capacity:

- 1) Fee or easement to an agency/organization with demonstrated capacity of managing DWAs

\_\_\_\_\_ 1 point

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- 2) Fee or easement to an agency/organization with no demonstrated capacity of managing DWAs \_\_\_\_\_ 0 points

### E. Landscape Context: Maximum Points Available = 3

- 1) Travel corridor(s) (streams, wetlands, valleys, ridges) are protected as part of the project or on adjacent conservation lands \_\_\_\_\_1 point
- 2) Surrounding land uses partially limit movement \_\_\_\_\_1 point
- 3) > 75% of the biological deer wintering area will be protected point \_\_\_\_\_1
- 4) Surrounding land uses are incompatible \_\_\_\_\_0 points

### F. MDIFW Input: Maximum Points Available = 4

#### Regional Biologist Description

Describe in detail whether the parcel currently functions as a Deer Wintering Area. If not currently functioning, based on historic use and surrounding conditions, describe whether it will be able to provide shelter and have the potential to function as a deer wintering area in the next 20 years. Include a description of the proposed management and uses of the property and whether they are consistent with management for Deer Wintering Areas. Please also describe if there are site limitations (regulated or physical) that would prevent

the DWA from being managed for deer.

DWA SCORE \_\_\_\_\_

### 11. Single Exceptional Value (Points = 20)

If the land proposed for acquisition is documented to demonstrate a single exceptional value that is exceptionally rare and of outstanding significance in a statewide context then it shall be evaluated to determine if it will be awarded 20 points. An award of points in the category will be infrequent. This is an "all or nothing" point score.

The land is documented to demonstrate a single exceptional value recognized as being the best or among the best in the state of its type, and this value is supported by a comprehensive published report(s), data, and credible testimony.

SCORE \_\_\_\_\_

## Proposal Format and Instructions for Conservation & Recreational Land Proposals

All applicants are required to provide maps, visual aids (e.g. photos) and as much supporting information as necessary for the Board to better understand the project and the values it addresses. Digital copies of any maps and photos are required. Carefully read this section to learn what the Board wishes to see in a well-developed proposal. Program staff can make available examples of successful proposals that may provide useful models.

**All applicants are required to use the following proposal structure and numbering sequence and to provide complete information. If not applicable, indicate so by placing a N/A.**

Submit an electronic PDF and eleven printed copies of your proposal to:

Land for Maine's Future  
22 SHS / 18 Elkins Ln. / Harlow Building  
Augusta, ME 04333-0022

If your proposal includes a deer wintering area and you want to qualify for the extra deer wintering area points, please submit thirteen copies of the proposal.

- 1) **Proposal Summary page**
  - a) **Project Title:** This is the title by which your proposal will be catalogued by Program staff.
  - b) **Significance:** Indicate whether your project is of statewide, regional, or local significance (see description on pages 23 - 24 for guidance)
  - c) **Applicant Name & Contact Information:** Provide the applicant's name, address, email, and phone number of the primary contact person.
  - d) **Location of Project:** Provide the name of the township and county. Include the district number of the senate and house districts where the property is located. Include a copy of the recorded deed, including book and page reference of subject property.
  - e) **Status of Title:** Clear title is required prior to closing. Provide a brief status of title and documentation if available.

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**f) Size:** Indicate how many acres your project encompasses and identify fee acres vs. easement acres.

**g) Funding request:** Indicate the amount of your request for LMF funding (full budget in "L" below)

**h) Agency Sponsor & Proposed Ownership:** Possible agency sponsors are the Department of Agriculture, Conservation and Forestry, the Department of Inland Fisheries & Wildlife, the Department of Marine Resources, or the Maine Historic Preservation Commission. Please be sure that you have contacted the agency and it supports your proposal (see page 14). A letter of agreement from the sponsoring agency must be included in the proposal. The letter must state that the sponsoring agency is prepared to hold the real estate interest proposed for protection either directly or via a project agreement.

**i) Current landowner(s):** Include address, phone number, and e-mail (if available) of the current landowner(s). A letter from the landowner(s) indicating their willingness to be considered in the project must be included in the proposal.

**j) Partners:** Other entities supporting this project. Include names of individuals, address, phone number, and e-mail address.

**k) Date of Proposal:** Indicate the date you submitted your proposal.

**l) Proposal Budget:** Use the form in Appendix D. Note: the Board will not consider a proposal with an incomplete budget.

### 2) Summary Project Description

Include a brief narrative description of the project and its context. Provide the Project's objectives and the benefits. Please discuss the conservation and/or recreational assets that the project seeks to protect and other potential benefits. If there are municipal ordinances that limit or prohibit hunting, trapping or other traditional uses of the property, please note that in the summary description. The summary description should describe whether the proposed acquisition is fee, easement or a combined strategy. Subsequent sections of the proposal provide opportunity for more detailed discussion of specific aspects of the project that correspond to the scoring criteria.

Photographs of the property are required. If these are incorporated in the text electronically, they must also be provided on a CD in JPEG or TIFF format.

If the project is proposed as a working forest easement, the project description must include a draft of the working forest easement. Refer to the Guidelines for Working Forest Conservation Easements published in July 2002 by LMF and available on the LMF website

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and from LMF staff (see appendix H for a discussion of these easements). The easement will be subject to a separate LMF review.

\*NOTE: Applicants should review the previous section on “Threshold Criteria” (pg. 10) and the list of “Other Board Considerations” (pg. 12). Use the summary project description to address any of these criteria that are not part of other sections of the proposal.

### 3) **Location Information**

Project boundaries of all parcels included in the proposal must be delineated on:

Maine Atlas Base Map - showing project location and regional perspective

USGS Topographic Base Map - showing entire boundary of proposed project, legal access and adjacency of other conservation lands.

Aerial Photo - showing project location and boundaries

Other Maps as Appropriate - showing endangered species, significant natural communities soils, outstanding physical features, proposed public access, trails, camping sites, etc., context of the project within a greenbelt plan, trail system, river corridor, comprehensive plan, etc.

Note: Please no maps larger than 11” by 17”.

If possible, include a base map in electronic format (e.g. a GIS-compatible “shape” file)

### 4) **Naturalness of the Land**

Please provide a complete description of the physical and natural features of the proposed property and comment on all evidence of all existing disturbance. Based upon your evidence provided please identify which of the scoring criteria on page 21 best represents your project and why.

### 5) **Accessibility of the Land for its Intended Use**

Describe the plans for public use of the property and the degree to which access to the proposed property is currently available, is suitable for the intended use, or needs to be developed to accommodate the intended use. Identify which of the scoring criteria on page 21 best represents access to your property and supplement with specific descriptions and evidence supporting this.

### 6) **Proximity to Other Public Lands or a Component of Larger Conservation/Recreation Effort**

The narrative for this section should demonstrate how the project will enhance the connectivity of existing conservation efforts and will address regional conservation needs. Describe which of the scoring criteria on page 22 are applicable for your project and provide evidence.

\*NOTE: If your project serves as an anchor parcel in an area of the state without existing conservation lands, or increases LMF investments to a part of the state that has had no or minimal investment, please provide a detailed description of how your project will address regional conservation needs and whether the project will serve as a catalyst for additional conservation and recreation opportunities.

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7) **Major Land Asset**

State which single asset the proposed area has as its primary value and describe why. See the list of eligible types on page 23 and Appendix E for descriptions.

8) **Significance**

Using the Major Land Asset you chose above, identify the level of significance of this Major Land Asset using the definitions provided on page 23. Be sure that you provide information (reports, database information, credible testimony, etc.) that supports your selection. Be consistent with your Project Category identified in #1(b).

9) **Need Rating**

Using the Major Land Asset you chose above, identify the associated level of need for this Major Land Asset using the definitions provided on page 24. This need must be substantiated by a published report(s) data base(s), or credible testimony.

10) **Additional Land Assets**

List every land asset category you feel is reflected in your proposal other than the one you selected as the "Major Land Asset" (as listed in Appendix E). Please be sure to state clearly the basis for your choice(s) and describe whether each additional land asset is of minor, moderate or major significance as described on page 24.

11) **Community and Economic Benefit (Maximum Points = 5)**

The Board encourages applicants to explicitly describe potential community and economic benefits of the proposed projects. The board seeks to cultivate and support closer working relationships between land conservation efforts, businesses, and the community. Your proposal should demonstrate whether your project offers substantial, moderate or minimal community and economic benefit. See page 25 for these descriptions.

12) **Project Structure**

The Board will be giving preference to easement acquisitions and projects that demonstrate municipal support. Please briefly describe the structure of your project (fee or easement for each parcel acquired with LMF funds), why this is the appropriate mechanism for this project. Please also describe what efforts have been made to partner with the municipality(ies) where your project is located and include a letter of support. For projects in the Unorganized areas of Maine, please describe what efforts have been made to partner with the County and include a letter of support from the County Commissioners.

**BONUS:**

13) **Significant Undeveloped Archeological Site**

Proposals claiming points for "significant, undeveloped archeological sites" must have a written endorsement from the Maine Historic Preservation Commission that describes the



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significance of the archeological resources on the site. Please also include a description of the archaeological resources in your proposal.

### 14) **Public Water Supply**

Using the criteria on page 28, describe whether your proposal is a public water supply and how the intended use and management of the property is consistent with the protection of the public water supply. Please remember to include a letter of support from the water district.

### 15) **Deer Wintering Area**

Points may be awarded to projects that include conservation of deer wintering areas.

**Proposals may only receive points if the applicant intends to develop and comply with a MDIFW approved Habitat Management Agreement.** Proposal must be approved by the agency that will hold title to the land being conserved.

DWA related guidance and *Guidelines for Wildlife: Managing Deer Wintering Areas in Northern, Western and Eastern Maine* can be found at:

<http://www.maine.gov/ifw/wildlife/species/mammals/deer.html>.

See Appendix K for DWA management plan information. A copy of P.L. 2011, Chapter 696 can be found in Appendix J.

Please follow the scoring criteria beginning on page 28 to develop this section of your proposal and communicate with MDIFW if you feel your proposal meets these requirements.

MDIFW contact regarding DWA proposals:

Bethany Atkins

41 State House Station

Augusta, Maine 04333

(207) 287-5878

[bethany.atkins@maine.gov](mailto:bethany.atkins@maine.gov)

### 16) **Single Exceptional Value**

If the land proposed for acquisition is documented to demonstrate a single exceptional value and is recognized as being the best or among the best in the state of its type it may be awarded 20 points. Provide citations for the comprehensive published report(s), data base(s), or credible testimony that support this conclusion.

### 17) **Estimate of monitoring and management costs**

Every applicant submitting a proposal to acquire property or an interest in property shall provide:

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- A description of the management envisioned for the property for the first 10 years following acquisition. The proposal must provide a description of the anticipated management responsibilities retained by the landowner and those to be assumed by the State and/or the cooperating entity;
- Estimates of the costs to the State and/or the cooperating entity of managing the land for the uses proposed in the proposal; and
- Estimates of the costs associated with monitoring for compliance when an easement is acquired.

### 18) **Project Readiness**

To ensure that the project can be completed in a timely manner, the LMF Board considers how many due diligence items are completed at the time the proposal is submitted. Include a description of the plan for and status of fund-raising efforts for matching funds.

Readiness items include:

- Current appraisal (acceptable for Board review)
- Final easement or fee acquisition conditions completed
- Cost Share commitment established
- Signed option or purchase and sales agreement
- Pre-acquired & held by a third party in coordination with sponsoring state agency

Readiness scale:

- Level 1 – 4 items completed
- Level 2 – 3 items completed
- Level 3 – 2 items completed
- Level 4 – 1 item completed
- Level 5 – 0 items completed

### 19) **Organizational capacity**

Describe the applicant's capacity to undertake the project with a reasonable prospect of bringing it to a successful conclusion. The Board will consider all relevant factors including without limitation: level of debt, fund raising ability, past land conservation activity and transactions, organizational history, scope of conservation vision, and evidence of success in building and sustaining land protection campaigns. Non-profit applicants should submit their most recent financial audit or most recent financial statement that accurately represents the organization's current financial condition. Describe the proposed title or easement holder's ability, experience, and resources to manage the property appropriately.

### 20) **Names of Individuals Knowledgeable about the Site or your Proposal**

List the names of individuals who can speak to the various values which your proposal will protect. Include a telephone number at which they can be reached.

# **Section III**

## **Public Access to Maine Waters Fund**

# Overview

### **Purpose**

The Public Access to Maine Waters Fund is designed “to get people to the water.” The Board will accomplish this by acquiring fee simple or public access rights on small parcels of land to create or enhance access points to lakes, ponds, rivers, and coastal waters. Lands for access could support a facility for trailered boats and/or small, hand-launched craft (canoes, kayaks, for example) and provide bank fishing (shoreline angling and wading), swimming, clamming, worming, or other water contact opportunities. Access is primarily intended for general public use but may be used for commercial purposes, provided that such commercial use does not exclude other uses by the general public.

### **Use of the Fund**

Anyone proposing a project to be funded by the Public Access to Maine Waters Fund should determine if a project fits under the narrow and well-defined purpose of the Public Access to Maine Waters Fund or if it is more appropriate in the Conservation and Recreation Land category. Refer to the purpose statement above to make this distinction and determine which proposal category you should use.

### **State Agency Involvement**

The majority of public water access sites are acquired, developed, and managed by -- or with assistance from -- the Department of Agriculture, Conservation and Forestry and the Department of Inland Fisheries and Wildlife. These departments often need to act quickly to acquire water access sites for the following reasons: the scarcity of good sites; the high level of demand for the sites; and the time required to carry out appraisals and site suitability assessments. Recognizing these factors, the Board created an expedited process allowing State agencies and cooperating entities to take quick action to secure water access sites. State agencies use established priority lists and other qualifying criteria to select sites. The Board will review funding requests and determine the amount of funds it will contribute to the project. See page 14 for a list of Contacts and Cooperating Entities.

### **Who Can Apply**

DACF and MDIFW have the primary responsibility for public water access projects. However, this process is open to any party qualified to receive LMF funding. Any applicant (municipality, land trust or other cooperating entity) wishing to take advantage of this expedited process must work with one of these State agencies in advance of their proposal to the Board. An applicant may take the lead, and hold title to the land, but must seek the guidance and support of the appropriate State agency.

# Access to Maine's Waters Fund Proposal Process

The Departments use the lists of priority water bodies developed in the *Strategic Plan for Providing Public Access to Maine Waters for Boating and Fishing* (MDIFW and DOC, 1995) and *Coastal Water Access Priority Areas for Boating and Fishing* (SPO and DMR, 2000). These lists are updated periodically as new information becomes available. Applicants should consult with the appropriate agency to determine if the potential water access site is in one of the priority areas or otherwise meets the Agency criteria for water access needs. LMF staff can assist in this process.

Priorities for inland and coastal water access sites are determined based on the following:

- \* Location of the water in relation to population centers and other water access sites;
- \* Size of the water body and the diversity of recreational opportunities it offers;
- \* Level of and proximity to existing public access sites and access needs;
- \* Value of fisheries opportunities based on MDIFW and/or DMR's evaluation;
- \* Expected demand and diversity of uses of the site, current or anticipated;
- \* Threat of conversion to other uses, such as development.

When a good access acquisition opportunity becomes available and it conforms to the LMF criteria, the agency [or cooperating entity] will notify the LMF Program Director. The Program Director will advise the agency of the next scheduled Board meeting. The agency or cooperating entity will provide information to the LMF Director following the Proposal Format and Instructions beginning on page 41. This information must be submitted along with other supporting documentation at least 30 days in advance of the scheduled meeting and will be provided to the Board to provide Board members an opportunity to review the information prior to their meeting discussion. At the meeting, the agency or cooperating entity will present the proposal to the Board, and outline the financial package including acquisition funds, reimbursement for allowed acquisition costs, and the required match.

### **Expedited Process Guidelines For Applicants**

- Applicant complete appraisal(s) ahead of negotiations and makes the appraisal(s) available to the Appraisal Oversight Committee (AOC), so that if issues arise, they can be addressed prior to an offer. This review can be done even before the project becomes a proposal to the Board.

Use an appraiser who follows the Land for Maine's Future Appraisal Standards.

- If a Purchase and Sales contract must be in place before committee and board discussions take place, make sure it is conditioned on AOC and Board approval. It is also important that you make it clear to the seller that it is the Board's policy not to participate in projects where the purchase price exceeds fair market value as determined by an appraisal.

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- When presenting a proposal to the full Board, be familiar with the Board's policies and guidelines, anticipate questions, and work with staff to review your proposal. Staff can assist you in anticipating questions and designing proposal materials which will contribute to an expeditious Board review.

### Proposal Inquiry Form

This short form can be submitted at any time (see Appendix A). It provides the Land for Maine's Future Program staff with the information they need to determine if your project meets the criteria for the Public Access to Maine Waters Fund.

## Water Access Proposal Format and Instructions

Please use the following proposal structure and numbering sequence to provide information. If not applicable, please indicate by placing a N/A.

Submit an electronic PDF and eleven printed copies of your proposal to:

Land for Maine's Future  
22 SHS / 18 Elkins Ln. / Harlow Building  
Augusta, ME 04333-0022

- 1) **Applicant**  
Name, address, and phone number of the applicant and the primary contact person.
- 2) **Agency Sponsor**  
Indicate which of the following is the project sponsor and include a letter from the sponsoring agency:
  - Department of Inland Fisheries & Wildlife
  - Department of Agriculture, Conservation and Forestry
  - Department of Marine Resources
- 3) **Date of Proposal**  
Indicate the date you submitted your proposal.
- 4) **Project Title - Body of Water**  
This is the title by which your proposal will be catalogued by Program staff.
- 5) **Location of Project**  
Provide the name of the township and county. Provide the numbers of senate and house districts. Include a copy of the recorded deed, including book and page reference of subject property.
- 6) **Status of Title**  
Clear title is required prior to closing. Provide a brief status of title and documentation if available.
- 7) **Interest to be acquired**  
Indicate if your project is an acquisition in fee, an easement or a combination.

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- 8) **Size**  
Indicate how many acres your project encompasses and identify fee acres versus easement acres if appropriate.
- 9) **Owner(s)**  
Include address, phone number, and e-mail (if available) of the current landowner(s). A letter from the landowner(s) indicating their willingness to be considered in the project must be included in the proposal.
- 10) **Partners**  
List other entities participating in this project. Include address, phone, e-mail
- 11) **Names of Individuals Knowledgeable about the site/proposal**  
List the names of individuals who can speak to the access benefits that the proposal will provide.
- 12) **Financial Summary**  
Use the form in Appendix D. Note: the Board will not consider a proposal with an incomplete budget.
- 13) **Project Description**  
Include a narrative description of the project as well as the context surrounding it.  
  
Photographs of the property are required. If these are incorporated in the text electronically, please provide the images on a CD in JPEG or TIFF format.
- 14) **Location Information**  
Provide a selection of easy-to-read maps including:  
a) Maine Atlas Base Map - showing project location and regional perspective;  
b) USGS Topographic Base Map - showing entire boundary of proposed project, legal access and proximity to other public and private conservation lands. If possible please include this information in electronic form (a GIS-compatible "shape" file);  
c) Other Maps as Appropriate  
d) Copy of the recorded deed, including book and page reference of subject property.
- 15) **Demonstration of Need**  
Indicate whether the project has been designated as a priority water access site, and by which agency. Contact the sponsoring agency for further information. If it is not, provide documented, credible evidence that supports the need for public access to the lake, river or coastal area as determined by the priorities described under the Proposal Process on page 39. The sponsoring agency must support this need.



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**16) Suitability for Intended Use**

Demonstrate that the property has no legal constraints preventing its development and use for the intended access, and that the physical characteristics of the site are suitable for the intended access and development needed.

**17) Impact on Natural Resources**

Describe what, if any, impact the proposed access will have on the natural and cultural resources of the water body and the surrounding land. This assessment is to be performed by the appropriate natural resource agency (DACF, MDIFW, DMR), and in consultation with the Maine Natural Areas Program and the State Historic Preservation Office.

**18) Existing Public Access on Proposed Water Body**

List and describe all other public access sites that exist on the lake or pond along which your parcel is located. If the site is along coastal or riverine waters, list the closest public water access site and the type of site (e.g., boat launch site, place for shoreline angling).

**19) Value of Fisheries Opportunities**

List and document any high value or outstanding fisheries that are currently or will be enjoyed by future users of this access site.

**20) Expected Demand and Diversity of Uses**

Describe the type of use -- either current if it is an existing privately owned site, or anticipated -- at the proposed site and the number of different user groups that will benefit from the proposed site.

**21) Threat of Conversion to Other Uses, Especially Development or Non-Water-Dependent Uses**

Indicate the degree of threat to development, or the conversion to other non-water dependent uses, of the proposed site.

**22) Estimate of monitoring and management costs**

Provide:

- A description of the management envisioned for the property for the first 10 years following acquisition. When the proposal involves acquiring an interest in property, the proposal must provide a description of the anticipated management responsibilities retained by the landowner and those to be assumed by the State or a cooperating entity;
- Estimates of the costs to the State or cooperating entity of managing the land for the uses proposed in the proposal; and
- Estimates of the costs associated with monitoring compliance with an easement when an easement is acquired.

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### 23) **Project Readiness**

To ensure that the project can be completed in a timely manner, the LMF Board considers how many due diligence items are completed at the time the proposal is submitted.

Readiness items include:

- Current appraisal (acceptable for Board review)
- Final easement or fee acquisition conditions completed
- Cost Share commitment established
- Signed option or purchase and sales agreement
- Pre-acquired and held by a third party in coordination with the sponsoring state

Readiness scale.

- Level 1 – 4 items completed
- Level 2 – 3 items completed
- Level 3 – 2 items completed
- Level 4 – 1 item completed
- Level 5 – 0 items completed

**Also include a description of the plan for and status of fund-raising efforts for matching funds.**

### 24) **Organizational capacity**

Describe the applicant's capacity to undertake the project with a reasonable prospect of bringing it to a successful conclusion. Non-profit applicants should submit their most recent financial audit or most recent financial statement that accurately represents the organization's current financial condition. The Board may consider all relevant factors including without limitation: organizational debt, fund raising ability, past land conservation activity and transactions, organizational history, scope of conservation vision, and evidence of success in building and sustaining land protection campaigns. Be sure to describe the proposed title or easement holder's ability, experience, and resources to manage the property appropriately.

### 25) **Names of Individuals Knowledgeable about the Site or your Proposal**

List the names of individuals who can speak to the various values which your proposal will protect. Include a telephone number at which they can be reached.

# Appendices

Conservation & Water Access Inquiry Form.....Appendix A  
Farm Inquiry Form .....Appendix B  
State Land Acquisition & Access Programs .....Appendix C  
Form for Proposal Budget.....Appendix D  
Land Assets .....Appendix E  
Appraisal Standards .....Appendix F  
Model Project Agreements .....Appendix G  
Guidance for Working Forest Easements .....Appendix H  
Guidance for Agricultural Conservation Easements .....Appendix I  
Chapter 696 – (2012 bond).....Appendix J  
Deer Wintering Area Guidance and Map of Wildlife Management Districts.....Appendix K  
Access Improvement Grants .....Appendix L  
Frequently Asked Questions .....Appendix M  
Due Diligence & Closing Procedures .....Appendix N

# Land for Maine's Future Workbook

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# Appendix A

## Inquiry Form

**POTENTIAL PROJECT INFORMATION:**

**Property name:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Property Location:** Municipality: \_\_\_\_\_ County: \_\_\_\_\_

**Landowner:** *(please list full name and mailing address of landowner):*

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

Mailing Address: \_\_\_\_\_

Town & State: \_\_\_\_\_

(Tel. #) \_\_\_\_\_ (E-Mail) \_\_\_\_\_

**Inquiry Contact Person:** *(please list full name and mailing address)*

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

Mailing Address: \_\_\_\_\_

Town & State: \_\_\_\_\_

(Tel.#) \_\_\_\_\_ (E-Mail) \_\_\_\_\_

**Potential Partners** *(e.g. Conservation Commission, Federal Agency, local Land Trust or Non-profit Org.)*

*(Mailing Address, telephone #)*

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Project Size** *(Total acres)* \_\_\_\_\_ with Shoreland *(Length of frontage)* \_\_\_\_\_

**Land Assets:** *(Please check all of the land categories that apply.)*

- Recreation Land
- Water Access Land -     Inland         Coastal
- Areas of Scenic Interest and Prime Physical Features
- Lands Supporting Vital Ecological or Conservation Functions and Values
- Rare, Threatened or Endangered Natural Communities, Plants or Wildlife Habitat
- Farmland and Open Space (farmland proposals must apply under this)
- Ecological Preserve
- River or Trail System
- Island or Undeveloped Coastline
- Significant Mountain

**Type of Project:**  Acquisition in Fee     Conservation Easement     Combination of both

**Proposed State Agency Sponsor (Conservation and Recreation Lands):**

- Bureau of Parks and Lands, DACF
- Inland Fisheries & Wildlife
- Maine Historic Preservation Commission
- Not Yet Confirmed

**Proposed State Agency Sponsor (Water Access):**

- Inland Fisheries & Wildlife
- Marine Resources
- Bureau of Parks and Lands, DACF
- Not Yet Confirmed

**PROJECT DESCRIPTION:**

Provide information regarding the suitability for public acquisition, special features, and proximity to existing public lands and anticipated ownership of project lands.

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**Note:** Please attach the following:

- Site Location Map
- Property Boundaries on USGS Topographic Map

All owners of land being proposed to LMF are willing sellers and have full knowledge that their property is being presented to the Land for Maine's Future Board for consideration. If this project is presented to the LMF Board we will need a letter of consent from the owner(s).

Submit your completed form to LMF with a copy to your Designated State Agency (see Appendix C for contact information):

[Sarah.demers@maine.gov](mailto:Sarah.demers@maine.gov)  
 Land for Maine’s Future  
 22 SHS / 19 Elkins Lane / Elkins Bldg.  
 Augusta, ME 04333-0022

# Appendix B

## Farm Inquiry Form

### FARMLAND PROTECTION INQUIRY FORM:

Farm Name: \_\_\_\_\_ Date: \_\_\_\_\_

Type of Farm Operation: \_\_\_\_\_

**GENERAL INFORMATION:** County: \_\_\_\_\_ Town: \_\_\_\_\_

Landowner(s) *[please list full name of all owners]*: \_\_\_\_\_

Mailing Address: \_\_\_\_\_ Phone #: \_\_\_\_\_

### POTENTIAL CONSERVATION PARTNERS

*(Please list the name, mailing address, telephone #, and email address of the Land Trust, Town or other conservation partner)*

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**LAND DESCRIPTION:** Tax Map/Lot # \_\_\_\_\_ / \_\_\_\_\_ Zoning: \_\_\_\_\_

Total Acres: \_\_\_\_\_

Fields: \_\_\_\_\_

Forest: \_\_\_\_\_

Soil Classification by the USDA Natural Resources Conservation Service:

Prime Farmland \_\_\_\_\_ acres

Farmland of Statewide Importance \_\_\_\_\_ acres

Farmland of Local Importance \_\_\_\_\_ acres

Other working farmland not classified as Prime or Statewide Important \_\_\_\_\_ acres

Crops grown: \_\_\_\_\_

Building(s): \_\_\_\_\_

Does the farm have an NRCS Conservation Plan? Y / N (circle)

Does the farm have a certified Forest Management Plan prepared by a licensed Maine forester?  
 Y / N (circle)

Does the farmland owner or a family member have farm business plan? Or have they participated in a farm business planning effort by meeting with a SCORE volunteer and/or Maine Small Business Development counselor? Or have they completed a business planning course such as the Maine Farms for the Future Program or NxLevel - Tilling the Soil of Opportunity? Y / N (circle)

**LAND OWNERSHIP:** Deed type: \_\_\_\_\_ Book/Page #: \_\_\_\_\_

When was the property purchased by the current owner? \_\_\_\_\_

Is there a mortgage, second mortgage or equity loan on any portion of the property? Y / N (circle)

If “Yes”, what is the balance due on the note? \$\_\_\_\_\_

Name of the bank or lending institution(s) that holds this note? \_\_\_\_\_

Is there an existing boundary survey?: \_\_\_\_\_ Y / N (circle)

Significant wildlife habitat or other natural features (if any known, please describe): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Important Note:** The Land for Maine's Future requires that all owners of land being proposed to LMF are willing sellers and have full knowledge that their property is being presented to the Land for Maine's Future Board for consideration. Please have the owner(s) of the property described above sign below. This in no way represents an obligation to sell or creates any financial liability on the part of the landowner.

\_\_\_\_\_  
(owner)

\_\_\_\_\_  
(date)

Submit your completed form to:

[Sarah.demers@maine.gov](mailto:Sarah.demers@maine.gov)

Land for Maine’s Future  
22 SHS / 19 Elkins Lane / Elkins Bldg.  
Augusta, ME 04333-0022

And

Stephanie Gilbert,  
Farm Viability & Farmland Protection Specialist  
28 State House Station  
Augusta, Maine 04333  
(207) 287-7520  
[stephanie.gilbert@maine.gov](mailto:stephanie.gilbert@maine.gov)



# Appendix C

## State Land Acquisition & Access Programs

### Maine Department of Inland Fisheries & Wildlife

Bethany Atkins  
41 State House Station  
Augusta, Maine 04333  
(207) 287-5878  
[bethany.atkins@maine.gov](mailto:bethany.atkins@maine.gov)

The primary mission of the Department of Inland Fisheries and Wildlife (MDIFW) is to conserve and enhance the fish and wildlife resources of Maine, and to provide reasonable public access for use and enjoyment of these resources. MDIFW's programs are primarily funded by self-generated revenues, Federal Aid to Sport Fish and Wildlife Restoration, and other sources of state and federal funds.

MDIFW currently owns and manages 71 Wildlife Management Areas which encompass approximately 106,000 acres of land. These lands represent a variety of fish and wildlife habitat and recreational values, including large wetland and upland parcels, small marshes, coastal woodlands, seabird nesting islands, shorebird staging areas, and endangered and threatened species habitats. The primary management objective for each parcel is to maintain, create or restore the highest quality upland or wetland habitat possible.

The agency also owns and manages approximately 160 boating water access sites for recreational use of Maine's public inland and coastal waters and to enhance fish and wildlife resource management.

MDIFW's lands are utilized by the public for many recreational pursuits. The agency allows reasonable public access and recreational activities on these parcels when they do not conflict with the primary wildlife management objectives. Public recreational activities include but are not limited to "consumptive" wildlife uses such as hunting, trapping, and fishing, and numerous "non-consumptive" uses such as wildlife watching, wildlife photography, hiking, canoeing, and providing open space for the public. MDIFW's lands also serve as demonstration areas where the public can learn about fish and wildlife and their habitats along with habitat management techniques necessary to support their populations.

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MDIFW serves as a Designated State Agency under LMF, sponsoring proposals for others to acquire lands and conservation easements containing the following LMF Major Land Assets:

- Recreation Lands
- Water Access Lands
- Lands Supporting Vital Ecological Functions and Values
- Rare, Threatened, or Endangered Plants, Natural Communities, Wildlife and their habitat

MDIFW considers the following attributes as priorities when considering requests for LMF sponsorship. Projects which:

- acquire habitats essential for the conservation of endangered or threatened fish and wildlife;
- acquire lands necessary to achieve objectives identified in species management plans;
- acquire lands that contain habitats for other fish and wildlife requiring special management attention, such as Species of Greatest Conservation Need as identified in the State Wildlife Action Plan;
- acquire fish and wildlife habitats that provide opportunities for public use and access and/or to demonstrate wildlife habitat management;
- acquire parcels as additions to existing conservation lands to enhance their effectiveness by consolidating or expanding current boundaries;
- acquire lands with fish and wildlife values that complement land acquisitions of other public or private agencies;
- provide access for open water angling, bank and riparian angling, boating, hunting, wildlife viewing and other water-related uses; and
- provide access to high value fishery resources, particularly to those waterbodies where access is currently limited.

Requests for sponsorship are evaluated by a Department Land Acquisition Committee consisting of regional and research biologists and supervisors and land protection and water access personnel. Recommendations made to the Director of the Bureau of Resource Management who then makes final recommendations to the Commissioner.

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**Department of Agriculture, Conservation and Forestry  
Bureau of Parks & Lands**

**Conservation and Recreation**

Liz Petruska  
22 State House Station  
Augusta, Maine 04333  
(207) 557-0352  
[liz.petruska@maine.gov](mailto:liz.petruska@maine.gov)

**Public Access to Maine Waters Fund**

Tom Linscott  
22 State House Station  
Augusta, Maine 04333  
(207) 287-6830  
[thomas.linscott@maine.gov](mailto:thomas.linscott@maine.gov)

The Maine Bureau of Parks and Lands (BPL) is responsible for the management and administration of public lands for a variety of public interests. The Bureau holds approximately 86,000 acres in Parks, Historic Sites, and Boat Access sites which are properties managed primarily for public recreation or conservation (Parks, Boat Access) or acquired because of its historical or archaeological interest; and approximately 630,000 acres of Public Reserved and Non-reserved lands that are managed for multiple uses including wildlife habitat, recreation, ecological reserves, and timber management. The Bureau also holds conservation easements on over 60 properties encompassing approximately 373,000 acres, the vast majority of which provide public access rights. In addition, the Bureau is the “designated state agency” on over 100 Project Agreements with local “cooperating entities” acquiring lands or interests in lands with LMF funds.

The Bureau manages the Maine Forest Legacy Program, which provides funds through the U.S. Forest Service for acquisition of lands and conservation easements intended to conserve Maine forest land for multiple natural resource values including working forests. These funds provide up to 75% of the cost of acquisitions, and LMF funds are often sought as match. Forest Legacy projects are ideally suited for LMF funding as well, since in order to be selected for federal funding, a competitive process, they must contain a concentration of high value recreation, scenic and wildlife values. Other sources of funds used to match LMF funds administered by the Bureau include Land and Water Conservation Funds (LWCF), and Recreational Trails Program (RTP) funds.

The Bureau holds and sponsors proposals for others to acquire lands in the following LMF Land Categories:

- Recreational Lands,
- Water Access Lands,
- Lands Supporting Vital Ecological or Conservation Functions and Values,
- Rare, Threatened or Endangered Natural Communities, Plants or Wildlife Habitat, &
- Areas of Scenic Interest and Prime Physical Features.

To make the most of limited funds and limited staff for planning, negotiation, and resource management, the Bureau's priorities for acquisitions or sponsorship of initiatives to acquire land or conservation easements are determined by:

- the rating of property characteristics;
- evidence of need for protection and/or public recreation opportunity;
- the envisioned management of the property and the capacity of the managing entity to implement that vision over the long term; and
- a track record or other convincing evidence demonstrating the ability of the project proponents to acquire the funds necessary for the acquisition.

In reviewing property characteristics, the Bureau will consider the following attributes as priorities:

1. For project sponsorship purposes, the property contains natural/cultural resources and/or recreation opportunities that are of *well-documented significance* and meet LMF definitions of *state, regional* or *local* significance contained in this workbook. Greater significance is attached to properties with multiple natural/cultural resources and/or recreation opportunities.
2. The property has significant resources and/or opportunities that need protection due to a documented threat of degradation or loss; or have significant recreation opportunities that should be secured to address a documented need. (Documented need from SCORP, LAPAC, *Strategic Plan for Providing Public Access to Maine Waters for Boating and Fishing* (MDIFW & DOC), *Coastal Water Access Priority Areas for Boating and Fishing* (DMR), and other recognized sources)
3. There is guaranteed public vehicular access to the property or parent property; or it can be reached via a public trailhead if access will be by trail; or can be reached via public boat launching site if access will be by water.
4. Additional Considerations for Water and Boat Access Projects:
  - Location of the water in relation to population centers and other water access sites
  - Size of the water body and the diversity of recreational opportunities it offers
  - Level of and proximity to existing public access sites and access needs
  - Value of fisheries opportunities based on MDIFW and/or DMR's evaluation
  - Expected demand and diversity of uses of the site, current or anticipated
  - Threat of conversion to other uses, such as development.
5. Additional Conditions for Trails related projects:
  - It includes a variety of landscapes,

- It provides connections to existing trail routes or trail facilities,
- It provides connections to other public recreation areas or community facilities, and
- It provides connections to needed services (parking, food, water, shelter, fuel, repair services).

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**Department of Agriculture, Conservation and Forestry**  
**Bureau of Agriculture, Food and Rural Resources**

Stephanie Gilbert,  
Farm Viability & Farmland Protection Specialist  
28 State House Station  
Augusta, Maine 04333  
(207) 287-7520  
[stephanie.gilbert@maine.gov](mailto:stephanie.gilbert@maine.gov)

The Bureau of Agriculture, Food, and Rural Resources, works statewide to assist farmland owners and their communities with exploring strategies to protect farmland. Such strategies vary across the State, from strengthening farm businesses, to encouraging enrollment in Maine's farmland property tax program, to crafting and adopting of agriculture-friendly policies and ordinances.

In recent years, more families are choosing to work with land trusts to permanently protect their farmland with an agricultural conservation easement. While some of these easements are donated, most of the time a land trust and/or a town works to raise funds to allow it to purchase the farm's development rights in exchange for the family's grant of an agricultural conservation easement. Since 2000, two state agencies, fourteen land trusts and a handful of towns have collaborated to raise matching funds from other public and private sources in order to leverage grants from the Land for Maine's Future Program to protect 42 farms totaling 9751.8 acres of cropland, pasture land, orchard, forest and wetland in 10 counties.

All potential new LMF projects that feature farmland as the "Major Land Asset" must be sponsored by the Bureau of Agriculture, Food and Rural Resources.

To obtain sponsorship the potential applicant (land trust and/or town) must:

- 1) Arrange for Bureau staff to interview the landowners;
- 2) Arrange for Bureau staff to conduct a site walk at the farm to verify agricultural soils;
- 3) Prepare a draft purchase and sale agreement, easement outline, project timeline, and budget for Bureau staff to review; and
- 4) Address all questions or issues raised as a result of the Bureau's interview, site walk and document review.

If confirmed by the Bureau Director, the sponsorship letter will be sent to the potential applicant at least two weeks prior to the LMF deadline.

Once a farmland project is selected by the LMF Board and designated an "LMF Finalist", the applicant must work with the staff of the LMF Program and the Bureau to conduct and complete all due diligence as outlined in the LMF workbook. During this time the applicant must allow the Bureau to review and comment on the easement, survey and baseline document.

The applicant (as a “Cooperating Entity”), and the Bureau (as the “Designated State Agency” or DSA) must sign the LMF Project Agreement. In accordance with this Agreement, each year, the Cooperating Entity must conduct/submit the Land for Maine’s Future Fund – Annual Monitoring Report to the LMF Program and DSA.

Additionally, to support its role as the DSA, the Bureau now requires each Cooperating Entity to annually provide copies of stewardship monitoring reports, and any relevant notices or communications with the easement grantor(s), successor(s) or assign(s).

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## Maine Department of Marine Resources

Deirdre Gilbert  
21 State House Station  
Augusta, Maine 04333  
(207) 624-6576  
[deirdre.gilbert@maine.gov](mailto:deirdre.gilbert@maine.gov)

The Department of Marine Resources (DMR) mission is “to conserve and develop marine and estuarine resources; to conduct and sponsor scientific research; to promote and develop the Maine coastal fishing industries; and to advise and cooperate with local, state and federal officials concerning activities in coastal waters; and to enforce the laws and regulations necessary for these purposes...”

DMR has identified coastal water access as an issue of rising concern, especially in the southern part of the state. As waterfront property becomes increasingly valuable for summer homes, restaurants, marinas, and hotels, water access for commercial and recreational fishermen is harder to find. The Public Access to Maine Waters Fund funded by The Land for Maine's Future set-aside for water access sites provides one avenue for preserving and developing coastal recreational access sites.

DMR doesn't currently have a formal program for acquiring, holding, and managing coastal access sites and properties. However, DMR takes an active interest in coastal access issues and is working collaboratively with other agencies to identify areas of need and to encourage project proponents to apply for LMF funds. The Department is ready to assist and advise on any proposals that create or improve access for salt water commercial or recreational fishing. The Commissioner of Marine Resources sits on the Land for Maine's Future Board. Coastal property proposals will be referred on a case-by-case basis to the most appropriate agency or cooperator for sponsorship and proposal development work.

Since 2005, bond funds have been available for the Working Waterfront Access Protection Program. Through this Program, funds are available for the purchase of working waterfront covenants on strategically significant properties whose continued availability to commercial fisheries businesses is essential to the long term future of this economic sector. This program is run by DMR with the assistance of the LMF Program and others to identify and ready projects for funding by the LMF Board. A separate proposal workbook is available for this type of project, please contact Deirdre Gilbert (624-6576) for further information.

Also within the Department of Marine Resources is the Division of Sea Run Fisheries and Habitat. The Division currently holds properties and easements on several Downeast rivers to protect riparian and aquatic habitat for anadromous fish, and to provide recreational access to these rivers as appropriate. More information on the work of the Division is available at: <http://www.maine.gov/dmr/searunfish/index.shtml>.



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## Maine Historic Preservation Commission

Arthur Spiess  
65 State House Station  
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The Maine Historic Preservation Commission (MHPC) carries out the provisions of the National Historic Preservation Act in Maine, and various Maine statutes, involving survey, registration, construction project review, comprehensive planning and other activities involving historic, archaeological, and architectural sites and buildings. Staff archaeologists at the MHPC maintain statewide archaeological survey records and files, prepare documents summarizing historic and archaeological information, determine site significance (eligibility to the National Register), and direct some archaeological fieldwork.

The MHPC does not acquire fee interest in land or manage land owned by the State. MHPC does have an active conservation easement program designed specifically to protect archaeological sites. The documents establishing conservation protection are called Preservation Agreements and are enabled by a distinct statute, 33 M.R.S.A. §1551-1555 (and see 27 M.R.S.A. §371-378 which makes it illegal to dig on protected land without a permit).

Since the beginning of the LMF program, land acquisitions have been reviewed for the presence of significant archaeological sites for use in post-acquisition planning of public access and use of the property. In many cases this review is based on maps and archaeological records held by MHPC. The information on archaeological sites on LMF acquired property is provided to the LMF and the land owning or land managing entity for use in protecting significant sites for the future.

MHPC can sponsor an LMF project when the land contains exceptional archaeological value. In 2007 the legislature passed a bill to amend 5 MRSA §6207, LMF land acquisition criteria, to include one or more significant archaeological sites. The land that contains the site(s) must be primarily undeveloped with other landscape or conservation values.

The presence of significant archaeological sites does often overlap with the other land acquisition values of the LMF program. The vast majority (greater than 95 percent) of prehistoric archaeological sites in Maine are habitation/workshop sites where Native Americans both lived and worked. For most of Maine prehistory the state was covered by a dense forest and people tended to live and travel along waterways. They camped for a season or built their villages on areas of low slope adjacent to water shorelines, usually on the best drained area of low slope within a stretch of several hundred yards of shoreline. Thus, any canoe navigable water body shoreline is considered a potential area for a prehistoric archaeological site.



# Appendix D

## Form for Proposal Budget

The following format should be used to present the budget for the proposed project. Please consult with LMF staff with any questions and prior to modifying this form. Proposals with incomplete budget information will not be accepted for Board consideration.

For multi-parcel projects: Please ensure your budget form includes a detailed budget for each proposed parcel/easement acquisition. Indicate if the land values are based on estimates or completed appraisals. For pre-acquired properties: Advance approval is required from your Designated Sponsoring Agency (DSA). Attach DSA approval letter with your proposed project budget. Land or easements must be pre-acquired not more than 2 years prior to your LMF application.

**TOTAL PROJECT COSTS SUMMARY**

<b>1) LAND VALUE:</b>	<i>Estimated</i>	<i>or</i>	<i>Appraised</i>
Value of fee land to be purchased	_____		_____
Value of easement to be purchased	_____		_____
<b>Total Land Value:</b>	<b>\$</b> _____		_____

<i>Estimated</i>	<i>or</i>	<i>Actual</i>
_____		_____

**2) STEWARDSHIP ENDOWMENT:**

**3) ELIGIBLE “ALL OTHER” PROJECT COSTS AND SERVICES:**

	<i>Estimated</i>	<i>or</i>	<i>Actual</i>
Appraisal	_____		_____
Title report, Title insurance	_____		_____
Boundary survey	_____		_____
Legal fees	_____		_____
Closing/recordation fees	_____		_____
Environmental Site Assessment Ph I survey	_____		_____
Baseline documentation ( <i>easement only</i> )	_____		_____
Natural resource survey	_____		_____
Other ( <i>specify</i> ) 1.	_____		_____
2.	_____		_____
<b>Total All Other:</b>	<b>\$</b> _____		<b>\$</b> _____

**4) TOTAL PROJECT COSTS (Land Value + Stewardship + All Other) \$ \_\_\_\_\_ \$ \_\_\_\_\_**

**PROJECT MATCH SUMMARY**

Your proposal must provide matching funds greater than or equal to ½ of the total project costs. Matching funds may be in the form of cash from public and private sources, donated lands and easements, the applicant’s eligible “all other” costs, or a combination thereof. Amounts and sources of match must be clearly identified and whether these contributions have been secured, or are still pending. You will be required to provide documentation of matching funds prior to the release of LMF funds. Identify all costs as actual or estimated, and explain how they are derived. Please review the Notes section of the bottom of this page as you prepare your budget.

70% or more of your matching funds must come from **Land Value & Cash Match**

30% or less of your match matching funds may be contributed from **Eligible All Other Project Costs and Services**

**1) LAND VALUE & CASH MATCH**

	Status <i>Secure/Pending</i>	\$ Contribution <i>Estimate/Actual</i>	% Match
Value of <u>purchased</u> matching fee/easement lands (specify)	_____	_____	_____
Value of <u>donated</u> matching fee/easement lands (specify)	_____	_____	_____
Bargain sale offered by seller (list for each property)	_____	_____	_____
Cash contributions: 1.	_____	_____	_____
2.	_____	_____	_____
Stewardship Endowment contribution	_____	_____	_____
<b>Sub-Total Land Value &amp; Cash Match:</b>		<b>\$ _____</b>	_____

**2) ELIGIBLE “All Other” PROJECT COSTS and SERVICES:**

**Sub-Total All Other Match** (from Total Project Costs Summary): \$ \_\_\_\_\_ %

**3) TOTAL PROJECT MATCH:**

(Subtotal Land Value & Cash Match + Subtotal All Other Match) \$ \_\_\_\_\_ %

**4) AMOUNT REQUESTED: (Total Project Cost – Total Project Match)**

\$ \_\_\_\_\_

**NOTES:**

1. The value of lands acquired within 2 years of the date of project proposal may be used as match when the match parcel has a direct relationship to the project. This value must be validated by an independent appraisal which meets LMF appraisal standards.
2. Lands donated as matching funds are subject to the same requirements and restrictions as lands acquired with LMF funds.
3. Applicants are responsible for Eligible Project Costs. These documented costs may be applied to your match. Some costs will be covered by LMF. Do NOT include these in your Total Project costs:
  - Natural areas survey by MNAP
  - Archeological survey by MHPC
  - “5%” grants for minor capital improvements and farm business planning
  - LMF’s legal costs
4. To be included in LMF project match calculation, stewardship funds must be in hand (secured), with written confirmation signed & dated by applicant’s Treasurer which confirms: a) Board of Cooperating Entity has authorized the stewardship funds for project property and, b) the amount of funds in the endowment account to be held for stewardship and monitoring purposes.

# Appendix E

## Land Assets

The major land assets are established in the Act and are listed here with additional logical sub-categories. Those specifically identified by the Act are noted with an asterisk (\*). Those subcategories not listed in the companion legislation are those logical components of the major categories.

In 1996 the Land Acquisition Priorities Advisory Committee convened. The Committee's final report outlined a comprehensive set of goals and recommendations to guide future public land acquisitions and other conservation strategies.

As part of its preparation for issuing this workbook, the current LMF Board reviewed the LMF statutory requirements, LMF bond requirements and LAPAC report to develop the priorities and scoring system described herein.

### Land Assets

#### Recreational Lands\*

- Lands offering hunting and fishing opportunities \*
- Lands having trail corridors or hiking trails
- Lands offering opportunities for nature study
- Lands having cross-country skiing opportunities
- Lands having snowmobile trails
- Lands offering traditional camping or picnicking areas

#### Water Access Lands\*

- Coastal beach access for swimming or sunbathing
- Inland beach access for swimming or sunbathing
- Fishing access on streams and lakes
- Fishing access on oceanfront (including clamming and worming)
- Coastal boat launching sites
- Inland boat launching sites
- Canoe access sites (rivers, lakes, ocean)
- Recreational sites (camping or picnic sites) on streams, lakes
- Recreational sites (camping or picnic sites) on the coast

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Lands Supporting Vital Ecological or Conservation Functions and Values

- Wildlife habitat \*
- Wetlands \*
- Lands of importance to fish and wildlife because of their limited occurrence or biological diversity/productivity (e.g., coastal islands, salt marshes, inland wetlands, riparian areas)
- Lands providing public water supply protection when that purpose is consistent and does not conflict with the natural resource conservation and recreation purposes of this chapter.\*
- Lands of special importance to specific species in Maine (e.g. deer wintering areas\*, blue heron rookeries, fish spawning areas)
- Lands essential to maintaining wildlife migration corridors, or shore and seabird nesting habitats
- Lands representative of ecosystem types of Maine and essential to the preservation of the range of natural biological diversity

Rare, Threatened, or Endangered Natural Communities, Plants, or Wildlife Habitat \*

- Habitats which are naturally rare due to range limitations
- Habitats of special importance to the restoration of endangered and threatened species (e.g. bald eagle nesting territories, least tern nesting beaches)
- Fragile mountain areas \* (e.g. alpine tundra vegetation)
- Peatlands (certain types)
- Old-Growth Forests (representatives of common & rare types)
- Rare wetland types (e.g. fens, cedar swamps, patterned bogs)

Areas of Scenic\* Interest and Prime Physical Features\*

- Undeveloped shorelines\* (coastal, rivers, & lakes)
- Significant, undeveloped archeological sites\*<sup>1</sup>
- Mountain viewsheds
- Visual access to water (rivers, lakes, ocean)
- Areas along state highway system
- Headlands
- Waterfalls
- Gorges
- Whitewater rapids
- Mountain ridges
- Beach-dune systems
- Eskers
- Cobble beaches

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<sup>1</sup> In 2007, the Legislature authorized the Board to consider protection of “significant, undeveloped archeological sites”. Applicants claiming value under this category must have a written endorsement from the Maine Historic Preservation Commission that describes the significance of the archeological resources on the site.

Farmland and Open Space\*

- Prime farmlands
- Unique farmlands
- Multiple-use forestland
- Lands near population clusters available for passive or low-intensity active recreation
- River corridor greenways

If the primary purpose of your proposal is to protect a working farm -- and it has a secondary or minor conservation or recreation component -- then the project may fall under the Farmland & Open Space category. If the primary purpose of the proposal is conservation or recreation -- and it has a secondary or minor component that involves the protection of agricultural values -- then the project should be submitted under the Recreation Land category.

The purpose of the farmland investment is to protect Maine's most productive farmlands from conversion into non-agricultural uses and seeks to protect farmlands comprised of soils identified and classified by the USDA Natural Resources Conservation Service as "Prime Farmland", "Farmland of Statewide Importance", "Farmland Soils of Local Importance" and those lands classified as 'Unique Farmlands' that do not rely on prime, statewide or locally important agricultural soils, but do produce important high-value crops such as blueberries and cranberries. Additionally, LMF seeks to protect properties that sustain farming operations in areas of the State that support and anchor a viable agricultural economy.

Ecological Reserves

- Ecological Reserves are lands specifically set aside to protect and monitor the State of Maine's natural ecosystems. These lands are managed by the Bureau of Parks and Public Lands, and the Maine Natural Areas Program oversees the long-term ecological monitoring plan. Ecological reserves should serve as benchmarks which will provide important information about changes to our environment. These sites should be used for scientific research, long-term environmental monitoring, education, and in most cases may also provide important outdoor recreation opportunities.

The project must state that the applicants intend to actively seek designation as an ecological reserve or to be added to an existing ecological reserve, and to manage the project property as such in perpetuity. Ecological reserve as defined by MRS 12 Chap. 220 Subchapter 1 section 1805. Applicants must have a letter of support from the Bureau of Parks and Lands for the inclusion of this property in the state's Ecological Reserve system.

### River or Trail System

- The project must provide documentation that the project lands will enhance the protection and integrity of the proposed river segment by fostering an upgrade in water quality, or preventing further degradation of water quality, increasing critical riparian habitat for fish and waterfowl, fish passage, and recreational opportunities. It's the intent of this category that the property include frontage on a water course.
- A number of trail development efforts in Maine including the State snowmobile trail network, the Appalachian Trail, and the island trail network have proven very successful. However, there are additional recreational trail needs and opportunities that require attention including the development of extended loop hiking trails (2-5 days), as well as the creation of extended interconnected multi-use trail systems for uses such as hiking, biking, skiing, and snowmobiling and ATV riding. In particular, acquisition efforts should focus on opportunities to link existing public land holdings by trail corridors and to acquire trail corridors such as abandoned railroad beds. The project must provide documentation of the trail attributes.

### Islands and Undeveloped Coastline

- Islands, particularly coastal islands, have become increasingly sought after for development, threatening bird nesting habitat and other sensitive ecological values. The State, private conservation organizations, and the federal government have successfully protected many valuable islands in recent years. However, additional acquisition efforts are needed to protect those islands identified as having important resource values that remain vulnerable to development and habitat loss. To qualify for this multiplier, the project must provide documentation of the island attributes.
- Maine is famous for its coastline. However, only a small percentage of the coast is in conservation ownership. In particular, there are significant undeveloped stretches of shore, including coastal wetlands and estuaries that provide critical habitat to many species of wildlife and offer opportunities for expanded coastal recreation. The land must be on tidal water and the proposal must provide documentation that the project lands are undeveloped and will provide critical habitat to many species of wildlife and offer opportunities for expanded coastal recreation.

### Significant Mountains

- While many of the state's highest peaks are currently in the public domain, there are still a number of significant mountains in private hands that are worthy of public acquisition. Acquisition efforts should focus on those mountain areas with outstanding vistas, established recreational uses, or significant ecological values, as well as those that are in close proximity to population centers. The proposal must provide documentation of the significant mountain attributes.



# Appendix F

## Appraisal Standards Instructions for Applicants and Appraisers

### General Requirements

The Land for Maine's Future Board requires that all appraisal reports adhere to the Uniform Standards of Professional Appraisal Practices (USPAP). For proposals using other sources of funding (e.g. federal), additional appraisal standards may be required. Any appraisal submitted to LMF must be an arm's length appraisal conducted by a Maine Certified General Appraiser.

The Direct Sales Comparison Approach should be utilized as the primary method in valuing the property. The Cost Approach and Income Approach should only be used as the primary method of valuation if they are applicable to a specific property. A discussion of why they are being utilized should be included. If any secondary approach to value is used, the results should be compared against the Direct Sales Comparison Approach. If values do not closely agree, the reason for the divergence should be explained fully.

**Note:** The Board requires that the direct sales comparison valuation be accomplished primarily through comparison with sales between private parties. Sales to nonprofit conservation organizations or to government agencies must be limited to a supplementary role in the analysis. If any comparison sales are employed that involve governmental or nonprofit "conservation" buyers, the use of the sale must conform to the Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA – the so-called "Yellow Book"), and the requirements of the funding program. If the project involves donation of values as part of the transaction the appraiser should also consider if IRS appraisal standards must also be met. If the project involves USDA Forest Legacy Program funds there are additional unique requirements of that program.

Except in unusual cases, appraisals should not include Extraordinary Assumptions or Hypothetical Conditions. Applicants and appraisers should discuss with LMF project manager and director prior to including these approaches in the report.

The Board has adopted a tiered approach to the development of appraisals the applicant may consider. Parcels under 50 acres and less than \$100,000 in value may be eligible. See page 74.

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**Direct Sales Comparison Analysis**

- a) Comparable sales should be summarized (at least three and preferably five comparable sales between private parties should be utilized). Also relevant current listings should be included.
- b) A map showing the location of all comparable sales and listings should be included.
- c) Sales should be presented in table or grid form, showing adjustment for times, size, location, appeal, soils, improvements (buildings, etc.) and circumstances of the transaction that may affect value (as applicable to type of subject).
- d) Each sale must be discussed in the narrative.
- e) Differences between the zoning and other regulatory restrictions among comparable sales must be addressed.
- f) Appraisal practice generally recognizes the principal of a volume discount, i.e. larger parcels sell for less per acre (or front foot) than smaller parcels. Appraisers should strive to find comparable sales of similar size and when they are not available they should determine from paired analysis or other means an appropriate volume discount or other adjustments.
- g) Appraisers should use comparable sales that are similar in size, location, quality, potential, and amenity value. In addition to making adjustments for the presence/absence of utilities, appraisals should address qualitative factors such as privacy, quiet, view and usability of water frontage.

**Specifications for the Appraisal Report**

The following specifications pertain to all appraisals performed for projects. Appraisals involving easements have additional specifications that are listed toward the end of this Appendix. The specifications listed here are minimums; LMF staff may require greater requirements for properties with unique or special features that present unusual appraisal.

Applicants must submit an electronic copy and six hard copies of each appraisal report.

Appraisal reports must be presented in a complete, self-contained narrative report, rather than in "form" style. At a minimum, appraisal reports should contain the following:

1. Letter of Transmittal
  - a) Standard transmittal letter, including specification that landowner or designated representative was provided the opportunity to participate in the inspection of the property.

- 
- b.) Summary of appraisal assignment
  - c.) Size of property, effective date, and estimated value.
  - d.) Statement that the appraisal meets LMF standards
2. Title Page
    - a) name of property owner(s)
    - b) street, town, and county
    - c) size of subject property
    - d) effective date of appraisal
    - e) name and address of appraiser
    - f) Report must identify the State of Maine as an intended user (also satisfactory is LMF, DMR, DACF, IFW, DMR, or MHPC).
    - g) Appraisal shall not contain statements limiting public availability
  3. Table of Contents
  4. Area Maps

Maps or images adequate to locate and identify size and location of subject property. must show roads leading to subject. Delineate project boundaries on all maps.
  5. Summary of Important Facts and Conclusions
  6. Purpose of Appraisal and Definition of Market Value
  7. Area and Neighborhood Analysis

The appraiser should present all findings and conclusions about the external influences (social and economic) which could affect the value of the subject. The presentation should be analytical and related to the valuation problem at hand. Avoid itemization of facts and figures not pertinent to value.

Include:

    - a) Description of community (rural, suburb, resort, etc.)
    - b) Population trend
    - c) Reasons for trend, i.e., new industries, outward migration, etc.
    - d) Rate of construction activity in town
    - e) Utilities and public roads available in the area
    - f) Brief description of relevant municipal planning
    - g) Immediate neighborhood: enhancing or detrimental factors
    - h) Recent real estate market activity
  8. Site Map

A photocopy of a survey map is best. In the absence of a survey, a tracing of the property boundaries from an ortho-photo is preferred.

- 
9. Land Description as Appropriate for Type of Subject Property
    - a) total acreage being appraised
    - b) shape of parcel
    - c) total road frontage
    - d) land cover and topography, i.e., wooded, wetlands, mountain summit, etc.
    - e) brooks, rivers, ponds, etc.
    - f) brief soil description and analysis based on USDA Soil Survey, if appropriate
    - g) utilities available to site (how far, sewer, water, power lines, public road)
    - h) is there a local septic, building, lot size, or other development ordinance?
    - i) easements and title encumbrances affecting the value
    - j) existing state or local permits?
    - k) gravel, loam, sand, etc. -- commercial value?
    - l) use of adjacent land if pertinent
    - m) access
    - n) flood hazard
    - o) view/visibility
    - p) when timber or agriculture is a significant component of the value of the land, appraisers are expected to offer an informed discussion of timber values.
    - q) note a ten year history of conveyance of the property
  10. Improvements  
Describe those that are present, discuss condition, present use, and how they contribute to highest and best use.
  11. Assessment  
Current assessed valuation (state if property in Tree Growth or Open Space Program), tax rate, and copy of annual tax bill.
  12. Zoning
    - a) Describe zoning of subject property, including dimensional requirements of applicable zone.
    - b) If there are pertinent sections from municipal by-laws, include them in Addenda
  13. Legal Description
    - a) Include copy of recorded deed in Addenda
    - b) Indicate registry and book and page number
    - c) Note any deed restrictions or easements which would affect value
  14. Highest and Best Use  
The report shall state the highest and best use that can be legally made of the property for which there is a current market.

15. Appraiser's reconciliation and certification of value
16. Addenda
  - a) Comparable sales maps
  - b) Photographs of subject and all recent comparable sales
  - c) Description of each comparable sale and listings
  - d) Applicable portion of zoning ordinances, by-laws, and other local regulations
  - e) Wetlands or flood plain map (delineate boundaries within the subject property)
  - f) Site plan sketch if Income or Development Approach is used
  - g) Appraiser's qualifications
  - h) Statement of limiting conditions
  - i) Copy of recorded deed

### ***SPECIFICATIONS FOR APPRAISAL REPORTS FOR APPRAISALS OF CONSERVATION EASEMENTS***

This section provides additional guidance for appraisal of projects involving conservation easements, farmland protection, working forest easements and other partial interest transactions.

The appraiser will need the following:

- Final draft<sup>2</sup> of the proposed conservation easement, or other similar protection agreement
- Copy of LMF model "Project Agreement"
- Appraisal standards from funding sources other than LMF, when applicable.

When possible, the appraisal should include sale of similar properties that are subject to easement provisions similar to those proposed for the subject property. In addition to, and in the absence of such comparable sales, the "before and after" method is accepted, with appropriate adjustments.

#### **General Description of Methodology**

Unless otherwise instructed by requirements of funding sources, the appraiser should use the following methodology.

#### **I. Before Value Analysis**

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<sup>2</sup> The easement should be, but may not always be, in final form (except for final formatting, etc.) but should be in complete enough draft that it is clear what rights are being retained and what rights are being conveyed, in order to do the valuation. Please discuss any questions regarding the easement provisions with the client, and with LMF.

The Direct Sales Comparison Approach as described on page 68 should be utilized as the primary method in valuing the unencumbered property. The Cost of Development Approach and Income Approach should only be used if they are applicable. A discussion of why they are being utilized should be included. If any secondary approach to value is used, the results should be compared against the Comparable Sales Approach. If values do not closely agree, the reason for the divergence should be explained fully.

## II. After Value Analysis

The Highest and Best Use (HBU) of property subject to the proposed restriction should be carefully considered. For farmland protection projects, while agricultural use may often be the highest and best use of the encumbered land, the after value should not be assumed to be synonymous with "Farm Value" due to the potential HBU of encumbered properties as non-farm "estates."

A careful discussion of the proposed restrictions should be included in the after value analysis. Make sure that the proposed restrictions including any reserved building rights or access easements are carefully considered as they may affect highest and best use. The Direct Comparable Sale Approach is considered to be the best indicator of value. An Income Approach should be used only as a secondary approach.

- a. Description of land to be subject to Grant of Development Rights and Conservation Restrictions.
  - A map must be included that identifies;
    - land to be encumbered;
    - land to be excluded (that are part of the conveyance but not part of the Conservation Easement) from the Grant of Development Rights and Conservation Restrictions.
    - Any reserved building rights allowed in restrictions must be discussed in the appraisal and shown on the map of encumbered land.
- b. Direct Sales Comparison
  1. Sales should be legally encumbered with similar easements or adjusted to best reflect the easement to be imposed on the subject property.
  2. Physically restricted properties such as floodplain land, should be adjusted for soil productivity, physical restrictions, and any other factors associated with the proposed easement on the property which affect value.

3. Consider the diminution in value to the property by any requirement for grantee approval, restriction of timber, sand and gravel rights, other mineral rights, or Right of First Refusal, etc. Also describe any specific conservation or management practices in the easement that may affect value.
4. Enhancement value accruing to reserved lots, abutting land or lands in the same neighborhood under related ownership must be considered.

Due to limited market transactions involving restricted land, greater adjustments for time and location may have to be made.

5. Include a discussion of each comparable sale and point out any circumstances that could have an effect on value. All comparable sales should be confirmed with knowledgeable parties and must include documentation. This is especially true if the transaction included the sale of conservation restrictions to a government agency or a conservation organization.

The reports should be to the standards of the Uniform Standards of the Professional Appraisal Practice (and of Section 1.170 A-13(c)(3) of the Internal revenue Code; UASFLA, USDA Forest Legacy, or FRPP, if federal funds are involved in the transaction).

In addition to the reporting specifications on pages 67-71, appraisal reports for conservation easement projects should include the following:

1. A narrative description of the "before and after" of the conservation restriction.
2. Land Description - Soil description and analysis from USDA Soil Survey, include NRCS Farm plan if available.
3. Improvements - include agricultural and residential improvements - condition, present use and contribution to highest and best use.
4. Other components being appraised - public access rights, hunting/fishing rights, etc.
5. Highest and Best Use

The report shall state the highest and best use that can be legally made of the property for which there is a current market. In the appraisal of vacant land, the terms "highest and best use" and "feasible use" should be synonymous. Highest and Best Use should be applied to both the Before and After Analysis.

6. Certification of Value of "Before" and "After" and the resultant Value of the Conservation Restriction.
7. Addenda  
A copy of proposed conservation easement (note reserved building rights)

## ***THE TIERED SYSTEM APPRAISAL APPROACH AND PROCEDURES***

This approach differentiates between lower monetary value, simpler parcels (from an appraisal point of view) versus higher value or complex transactions. The goals of the proposed approach are to simplify and expedite the appraisal process for certain LMF projects, reduce costs for applicants and decrease LMF's administrative costs as well.

*The primary difference from current procedure is in the form of the required appraisal report. Standard appraisal practices would still be required. The appraiser would produce a simplified report versus the complete, narrative report which is now required.*

- “**Tier One**” is new.
- “**Tier Two**” is regular complete, narrative appraisal reports, including all conservation easement projects. These remain subject to Appendix F standards in the Workbook
- “**Tier Three**” is Working Waterfront Project appraisals, which continue to require 3<sup>rd</sup> party review. The Board may require a 3<sup>rd</sup> party review of any appraisal.

### **Tier One Appraisal provisions for applicant**

1. Applicant must obtain approval in advance from LMF that the parcel meets requirements for “Tier One” appraisal, before engaging appraiser in contract
2. Appraiser may contact LMF to clarify questions; client to participate in discussion
3. The appraisals are not limited to being completed by a Maine Certified General Appraiser. The appraisal may be performed by Certified Residential Appraisers licensed in Maine.

### **Tier One appraisal report instructions**

- Appraisal must meet LMF appraisal standards, with form report format being acceptable
- All other LMF policies and procedures remain in effect.
- The applicant is not required to provide a Complete, Narrative Summary Report if the parcel meets the following attributes.

#### **Required Parcel attributes**

1. Fee acquisitions only
2. Subject parcel size is  $\leq 50$  acres, and a value of  $\leq \$100,000.00$ .

#### In addition:

3. No “unique attributes” that make adjustments complicated
4. Sufficient, easily found sales comparable sales are available having similar attributes and characteristics as the proposed property



**Required information in a “Tier One” Appraisal Report**Sales Comparisons

1. Minimum of 4 sales and 3 listings within 18 months of the effective date of appraisal;
2. No sales to government or land conservation organizations;
3. All comparable sales are to be within 50 miles of “effective market area” of the project property.

Report Format

1. Cover letter, with appraiser’s certification that appraisal meets USPAP standards
2. Photos of the subject property and all comparable sales
3. Deed of subject property
4. Grid of comparable sales, showing adjustments
5. Location Map showing subject parcel and a map showing locations of all comps
6. Addendum which includes appraiser’s rationale and adequate reconciliation of final value, as appropriate
7. Land Appraisal Report Form.<sup>3</sup>

Not required in the “Tier One” Appraisal Report

1. Area, City, and Market Data, i.e. standard “boiler plate” information
2. Market trends
3. Comparable sales narrative, except as noted on Appraisal Report Form <sup>3</sup>

For more information contact: LMF Program Director at 207-287-7576

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<sup>3</sup> Appraiser may use a form such as the Appraisal Institute Land Appraisal Report form; the FNMA vacant land form FW- 68, or other *equivalent* forms they may have available. If a form is utilized, please include MLS sold/listing sheet for each comparable sales or listing.

# Appendix G

## Model Project Agreements

These Model Project Agreements are provided as a representation of what a successful applicant can expect. The first project agreement is for fee acquisitions and the second is for easement acquisitions. The project agreement for your project will vary from these models.

**LAND FOR MAINE'S FUTURE FUND  
PROJECT AGREEMENT**  
 (Pursuant to *[insert bond statutory reference, i.e.  
P.L. 2009 c. 645, Sec. J or P.L. 2011 c. 696]*)  
*[Fee Version]*

**Cooperating Entity:** \*  
**Project Name:** \*  
**Parcel Name:** \*  
**Location:** \*  
**Designated State Agency:** \*

**Premises Covered by this Agreement:**

**(1) The \* Property**, being fee ownership of lands located on the \* side of \*, Town of \*, \* County, Maine, and as more fully described in a \* Deed from \* and \* to the \*, dated \* and recorded \* in the \* County Registry of Deeds in Book \*, Page \*; and see also plan by \*, File No. \*, dated \* and recorded in said Registry in Plan Book \*, Page \*.

***[Delete Item 2 if no match lands]***

**(2) Match Lands:** The \* Property by deed dated \*, and recorded in the \* County Registry of Deeds (“\*”) on \* in Book \*, Page \*, and depicted on a boundary survey \* prepared by \*, dated \*, a copy of which is on file with the Land for Maine’s Future Fund proposal and with the Maine Department of \* and \*. This parcel is offered as Match Land. See Item 4 below for other conditions pertaining to this parcel.

All of the foregoing hereinafter referred to as “the Premises”.

**Scope (Description of Project): \*****Project Cost:**

LMF Contribution to Cooperating Entity: \$\*

Cooperating Entity: \$\*

The following are hereby incorporated into this Agreement:

1. General Provisions
2. Project Proposal and Attachments by reference
3. Project Boundary Map
4. Other: *[Delete following language if no match lands. Substitute applicable language]*

That portion of the "Premises" designated as the Match Parcel above is subject to the management restrictions and covenants of this Project Agreement, but is not subject to the Project Agreement General Provisions Part II, section Paragraph H subsection (iv).

The Land for Maine's Future Board, represented by its Chair, (hereinafter LMFB), and the State of Maine, Department of *[insert agency name]*, represented by its Commissioner, as the Designated State Agency (hereinafter DSA), and the Cooperating Entity, mutually agree to perform this Agreement in accordance with Title 5, Maine Revised Statutes, Section 6200 et seq., as amended, and augmented by *[insert bond statutory reference, i.e. P.L. 2009 c. 645, Sec. J or P.L. 2011 c. 696]*, and with the terms, promises, conditions, plans, specifications, estimates, procedures, project proposals, maps, assurances, and certifications incorporated herein by reference and hereby made a part hereof.

Subject to the terms hereof and to the availability of funds for this purpose, By duly authorized action of the LMFB hereby agrees, in consideration of the agreements made by the Cooperating Entity herein, to obligate to the Cooperating Entity the amount of money referred to above, and to tender to the Cooperating Entity that portion of the obligation which is required to pay the LMFB's share of the costs of the above described project. The Cooperating Entity hereby agrees, in consideration of the agreements made by the LMFB herein, to provide the matching funds, and lands, if applicable, and to implement the project described above in accordance with the terms of this Agreement.

**The following special project terms and conditions are added to this Agreement:**

1. The Premises, including any structures located thereon, must remain as a single parcel, under one ownership, and may not be divided into parcels or lots, except for boundary

adjustments to resolve bona fide boundary disputes, subject to the approval of the DSA, or as may be approved under Part II, section H subsection (i) of this Agreement. In order to grant any such approval under this provision, the DSA and LMFB must find that the proposed division of the Premises furthers the conservation purpose and objectives of the project as defined in this Agreement and its attachments.

2. The Cooperating Entity shall not prohibit hunting, fishing, or trapping on the Premises, except to the extent of applicable state, local or federal laws and regulations.

3. The Cooperating Entity agrees that any fees or charges imposed for public access to or use of the Premises shall be reasonable and comparable to those charged in Maine for similar facilities, and any such fees must be approved in advance and in writing by the DSA.

4. The Premises or any interest therein may not be sold or transferred without prior written approval of the DSA and LMFB as provided under Part II, section H subsection (i) of this Agreement, and then only to a federal, state, or local government agency or a non-profit conservation organization which is a "qualified organization" under Section 170(h) of the United States Internal Revenue Code, and a "qualified holder" under Title 33, Maine Revised Statutes, Section 476(2), subject to the condition that the qualified organization expressly agrees to assume the rights and obligations of the Cooperating Entity provided for by this Agreement.

**5, 6, etc. \*[Other terms to be inserted as needed]**

IN WITNESS WHEREOF,  
the parties hereto have executed this Agreement as of the \_\_\_\_\_ day of \*, 201\*.

**THE LAND FOR MAINE'S FUTURE BOARD**

By: \_\_\_\_\_  
[print name], Its Chair

**STATE OF MAINE  
Department of \***

By: \_\_\_\_\_  
[print name], Its Commissioner

**COOPERATING ENTITY**  
\*

By: \_\_\_\_\_  
Print Name:  
Title:

STATE OF MAINE

County of \*

Date: \*

**Then personally appeared the above-named \*, duly authorized \* (title) of \***

**[Insert name of Cooperating Entity] and acknowledged the foregoing to be his/her free act and deed in his/her capacity and the free act and deed of said \*.**

**Before me,**

\_\_\_\_\_  
**Notary Public/Attorney at Law**

**Print Name:** \_\_\_\_\_

**My Commission Expires:**

**Seal:**

**LAND FOR MAINE'S FUTURE FUND  
PROJECT AGREEMENT GENERAL PROVISIONS**

**Part I – DEFINITIONS**

1. The term “DSA” or “Agency” as used herein means the Designated State Agency as shown on Page 1 of the Project Agreement.
2. The term “Director” as used herein means the Commissioner or agency head of the DSA or any representative lawfully delegated the authority to act for such Director.
3. The term “Premises” as used herein means the lot or parcel or parcels of land as described and shown on Page 1 of the Project Agreement.
4. The term “Project” as used herein means a single project, a consolidated grant, a project element of a consolidated grant, or project stage which is subject to the Project Agreement, and as described on Page 1 of the Project Agreement.
5. The term “Cooperating Entity” as used herein means a political subdivision or instrumentality of the State of Maine or a non-profit conservation corporation which will implement the Project as provided in this Agreement.

**Part II – CONTINUING ASSURANCES**

The Cooperating Entity specifically recognizes that Land for Maine's Future Fund project assistance creates an obligation to acquire, use and maintain the property described in the Project Agreement consistent with Title 5, M.R.S., Section 6200 et seq., as amended, and augmented by *[insert bond statutory reference, i.e. P.L. 2009 c. 645, Sec. J or P.L. 2011 c. 696]*, and the following requirements:

**A. LEGAL AUTHORITY:** The Cooperating Entity warrants and represents that it possesses the legal authority to apply for the grant and to otherwise carry out the project in accordance with the terms of this Agreement, and has either marketable title to the Premises or a binding Agreement to acquire the same. A resolution or similar action has been duly adopted by the governing body of the Cooperating Entity authorizing the filing of the proposal and implementation of the Project, including all understandings and assurances contained herein, and directing and authorizing the person identified as the official representative of the Cooperating Entity to act in connection with the proposal and to provide such additional information as may be required by the LMFB or the DSA and to enter into this Agreement.

**B. FINANCIAL ABILITY:** The Cooperating Entity warrants and represents that it has the funds and the commitment to finance the cost share of acquisition together with all other costs of the Project, including for monitoring and management, except the Land for Maine's Future Fund share stated on the cover page of this Agreement.

**C. USE OF FUNDS:** The Cooperating Entity shall use moneys granted by LMFB only for the purposes of acquisition/access improvement of the Project as approved by LMFB and provided for herein.

**D. USE AND MAINTENANCE OF PREMISES:** The Cooperating Entity shall assure that the Premises shall be forever used, operated and maintained as prescribed in this Agreement and all applicable laws, including without limitation Title 5, M.R.S. Section 6200 et seq., as amended and augmented by *[insert bond statutory reference, i.e. P.L. 2009 c. 645, Sec. J or P.L. 2011 c. 696]*. Permits and licenses necessary for the implementation of this Agreement or use of the Premises shall be obtained and complied with by the Cooperating Entity. All costs of acquisition or implementation of the Project and ownership and management of the Premises shall be paid by the Cooperating Entity, except as to the cost share to be provided by LMFB as specified herein. The Cooperating Entity shall ensure that appropriate signage is established and maintained on the Premises in a prominent location to acknowledge the support of the Lands for Maine's Future Program.

**E. RETENTION AND CUSTODIAL REQUIREMENTS FOR RECORDS:** The Cooperating Entity shall keep a permanent record in the Cooperating Entity's property records, available for public inspection, to clearly document that the property described in this Project Agreement, and the signed and dated Project boundary map made part of this Agreement has been acquired with Land for Maine's Future Fund assistance and that it cannot be converted to uses other than those specifically provided by this Agreement without the prior written approval of the LMFB and the Director of the DSA..

Financial records, supporting documents, statistical records, monitoring records and all other records pertinent to this grant and the Project shall be retained by the Cooperating Entity and may be inspected by representatives of LMFB and the DSA during normal business hours.

**F. ANNUAL REPORTING REQUIREMENTS:** On each anniversary of this Agreement, the Cooperating Entity shall report on an annual basis on a monitoring form as approved by LMFB. The form shall be sent to: 1) the Director of the DSA; and (2) the Director of LMFB. For the purposes of this Agreement, the anniversary date for reporting purposes shall be the date of recording of this instrument in the applicable registry of deeds.

**G. RIGHT OF ENTRY:** The DSA or LMFB, its employees, agents and representatives, shall have the right to enter the Premises at all times and in any manner without prior notice to assure compliance with the terms of this Agreement and any applicable laws.

**H. PROVISIONS IN THE EVENT OF TRANSFER:**



**i. PRIOR NOTICE AND APPROVAL:** In the event of any intended sale or transfer, in whole or in part, of the Premises or any interest therein, the Cooperating Entity shall provide at least sixty (60) days prior written notice of the same to the DSA and LMFB and shall obtain written consent from the same prior to such transfer. The Cooperating Entity shall pay for reasonable administrative costs incurred by the DSA and LMFB in connection with said sale or transfer.

**ii. DISSOLUTION:** In the event of dissolution of the Cooperating Entity, at least sixty (60) days prior written notice of such shall be provided to: (1) the Director, DSA; and (2) Director, LMFB. Prior written consent to the transfer and disposal of the Premises shall be obtained from LMFB as with a conveyance of the Premises under Subsection H(i) unless the DSA requires that the Cooperating Entity transfer title to the Premises to the DSA or a successor designated by the DSA under Subsection I(d).

**iii. SUCCESSORS AND ASSIGNS:** Except as otherwise provided herein, this Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto. The Cooperating Entity shall incorporate the terms of this Agreement by reference in any deed or other instrument by which the Cooperating Entity sells or transfers any interest (including leasehold interest) in all or a portion of the Premises. In the event that the LMFB or the DSA ceases to exist, the rights and responsibilities of that party shall automatically be vested in any successor agency designated by the Legislature. Failing legislative designation, the successor agency shall be as determined by the Governor.

**iv. SHARE IN PROCEEDS:** In the event of any sale, transfer, or condemnation of any or all of the Premises or disposal of the Premises pursuant to dissolution (hereinafter "transfer"), the Cooperating Entity shall pay to the Land for Maine's Future Fund, or to another fund designated by the LMFB, a share of the proceeds of the transfer. For the purposes of this Agreement, this share is defined as the product of:

- (a) the ratio of the value of the LMF's contribution to the value of the Premises as a whole as of the date of this Agreement, hereby established as XX%, multiplied by
- (b) the appraised value of the transferred Premises or portion thereof at the time of the transfer, unencumbered by this Agreement or other encumbrances recorded after the date of this Agreement (excluding value attributable to authorized improvements to the Premises made after the date of this grant and not paid for by the State).

The LMFB may waive receipt of any proceeds, provided that the said funds are applied to conservation of a substitute property as approved by the LMFB. This payment to the fund shall not relieve the transferee of the continuing obligations to hold, manage and use the Premises under the terms of this Agreement.

The State's share of proceeds shall be paid to the LMF at the time of the transfer, sale, condemnation or dissolution.

**I. ENFORCEMENT ALTERNATIVES:** In the event that the Cooperating Entity does not meet one or more of its obligations under this Agreement or the deed restrictions and covenants by which it holds title to the Premises, or in the event of dissolution of the Cooperating Entity, the DSA may exercise, in its sole discretion, any of the following remedies following written notice and thirty (30) days opportunity for the Cooperating Entity to cure the default:

- (a) any of the remedies or rights set forth in the Cooperating Entity's deed to the Premises;
- (b) the right to require specific performance on the part of the Cooperating Entity;
- (c) the right to a return of the State's share of proceeds as defined in Section H (iv); and
- (d) any other rights or remedies available at law or in equity including, but not limited to, the right to require that the Cooperating Entity perform remedial work and transfer title to the Premises to the DSA or a successor designated by the DSA under such terms and conditions as the court may require. In the event that the DSA exercises any of the rights available to it upon default of the Cooperating Entity, the Cooperating Entity shall reimburse the DSA for its costs of enforcement and collection, including reasonable attorney fees.

In addition to the foregoing remedies, it is understood and agreed that the Project creates a public charitable trust entitled to all the protections thereof under state law.

**J. AMENDMENT:** This Agreement may not be amended, in whole or in part, except with the written consent of all of the parties hereto.

**K. NOTICES:** Any notices or requests for approval required by this Agreement shall be in writing and shall be personally delivered or sent registered or certified mail, return receipt requested, or by other courier providing reliable proof of delivery, to the Cooperating Entity, the DSA and the LMFB at the following addresses, unless one has been notified by the others of a change of address:

**To Cooperating Entity:**     *[insert name & address]*

**To DSA:**                     *[insert name & address]*

**To LMFB:**                   c/o Director, Land for Maine's Future Program  
22 State House Station  
Augusta, Maine 04333-0022

NOTE: For the purposes of notice provisions under this Section K, the DSA and the LMFB shall be referred to collectively as the "State", and when being sent, notices shall be sent to both entities.

(a) In the event that notice mailed to the Cooperating Entity at the last address on file with the State is returned as undeliverable, the State shall send notice by certified mail, return receipt requested, or by such commercial carrier as requires a receipt, and by regular mail to the Cooperating Entity's last known address on file with the tax assessment records of the municipality of **/insert name of town where project land is located/**, Maine, and with the Bureau of Corporations, Secretary of the State of Maine, if applicable and the mailing of such notice shall be deemed compliance with the notice provisions of this Agreement. The Cooperating Entity's notices must include sufficient information to enable the State to determine whether Cooperating Entity's plans are consistent with the terms of this Agreement and the conservation purposes hereof.

(b) When the Cooperating Entity is required to obtain the State's prior written consent and approval, the Cooperating Entity's request shall be in the form of a written application and shall include sufficient details and specifications for the State to adequately review and analyze the same.

Within 60 days of receipt of a complete application, the State shall provide a written decision which shall grant, grant with conditions, withhold approval, or, with consent of the Cooperating Entity, extend the time within which to complete analysis of the application. The parties agree that the application and review process shall be completed as expeditiously as possible.

(c) The State shall not give written consent and approval unless the Cooperating Entity demonstrates to the satisfaction of the State that the proposed use or facilities is consistent with the terms, conditions, and purposes of this Agreement and will not diminish or impair the natural resources and scenic values of the Protected Property.

(d) In the event that the Protected Property is owned by more than one Cooperating Entity, the Cooperating Entity or its successor owners shall designate an agent responsible for the seeking of approvals from the State, and for the receipt of notices from the State. In the event that no single entity or agent is so designated, the approval of or notice to any executive officer of the Cooperating Entity shall be deemed the approval of or notice to all such owners.

**LAND FOR MAINE’S FUTURE FUND  
PROJECT AGREEMENT**

**(Pursuant to [insert bond statutory reference, i.e.  
P.L. 2009 c. 645, Sec. J or P.L. 2011 c. 696])  
[Conservation Easement Version]**

**Cooperating Entity:** \*  
**Project Name:** \*  
**Parcel Name:** \*  
**Location:** \*  
**Designated State Agency:** \*

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**Premises Covered by this Agreement:**

**(1) The \* Property**, being a conservation easement over lands located on the \* side of \*, Town of \*, \* County, Maine, hereinafter called the “Protected Property”, and as more fully described in a \* Deed from \* and \* to the \*, dated \* and recorded \* in the \* County Registry of Deeds in Book \*, Page \*; and see also plan by \*, File No. \*, dated \* and recorded in said Registry in Plan Book \*, Page \*.

**[Delete Item 2 if no match lands]**

**(2) Match Lands:** The \* Property by deed dated \*, and recorded in the \* County Registry of Deeds (“\*”) on \* in Book \*, Page \*, and depicted on a boundary survey \* prepared by \*, dated \*, a copy of which is on file with the Land for Maine’s Future Fund proposal and with the Maine Department of \* and \*. This parcel is offered as Match Land. See Item 4 below for other conditions pertaining to this parcel.

All of the foregoing hereinafter referred to as “the Premises”.

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**Scope (Description of Project):** \*

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**Project Cost:**

LMF Contribution to Cooperating Entity: \$\*  
Cooperating Entity: \$\*

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The following are hereby incorporated into this Agreement:

1. General Provisions
2. Project Proposal and Attachments by reference
3. Project Boundary Map
4. Other: *[Delete following language if no match lands. Substitute applicable language]*

That portion of the "Premises" designated as the Match Parcel above is subject to the management restrictions and covenants of this Project Agreement, but is not subject to the Project Agreement General Provisions Part II, section Paragraph H subsection (iv).

The Land for Maine's Future Board, represented by its Chair, (hereinafter LMFB), and the State of Maine, Department of *[insert agency name]*, represented by its Commissioner, as the Designated State Agency (hereinafter DSA), and the Cooperating Entity, mutually agree to perform this Agreement in accordance with Title 5, Maine Revised Statutes, Section 6200 et seq., as amended, and augmented by *[insert bond statutory reference, i.e. P.L. 2009 c. 645, Sec. J or P.L. 2011 c. 696]*, and with the terms, promises, conditions, plans, specifications, estimates, procedures, project proposals, maps, assurances, and certifications incorporated herein by reference and hereby made a part hereof.

Subject to the terms hereof and to the availability of funds for this purpose, By duly authorized action of the LMFB hereby agrees, in consideration of the agreements made by the Cooperating Entity herein, to obligate to the Cooperating Entity the amount of money referred to above, and to tender to the Cooperating Entity that portion of the obligation which is required to pay the LMFB's share of the costs of the above described project. The Cooperating Entity hereby agrees, in consideration of the agreements made by the LMFB herein, to provide the matching funds, and lands, if applicable, and to implement the project described above in accordance with the terms of this Agreement.

**The following special project terms and conditions are added to this Agreement:**

1. Under the terms of the Conservation Easement, the Protected Property, including any structures located thereon, must remain as a single parcel, under one ownership, and may not be divided into parcels or lots, except for boundary adjustments to resolve bona fide boundary disputes, subject to the approval of the DSA, or as may be approved under Part II, section H subsection (i) of this Agreement. In order to grant any such approval under this provision, the DSA and LMFB must find that the proposed division of the Premises furthers the conservation purpose and objectives of the project as defined in this Agreement and its attachments.

2. The Cooperating Entity shall not prohibit hunting, fishing, or trapping on the Premises, except to the extent of applicable state, local or federal laws and regulations.

3. Under the terms of the Conservation Easement, the Cooperating Entity agrees that any fees or charges imposed for public access to or use of the Protected Property shall be reasonable and comparable to those charged in Maine for similar facilities, and any such fees must be approved in advance and in writing by the DSA.

4. The Conservation Easement or any interest therein may not be sold or transferred without prior written approval of the DSA and LMFb as provided under Part II, section H subsection (i) of this Agreement, and then only to a federal, state, or local government agency or a non-profit conservation organization which is a "qualified organization" under Section 170(h) of the United States Internal Revenue Code, and a "qualified holder" under Title 33, Maine Revised Statutes , Section 476(2), subject to the condition that the qualified organization expressly agrees to assume the rights and obligations of the Cooperating Entity provided for by this Agreement.

5, 6, etc. \*[Other terms to be inserted as needed]

IN WITNESS WHEREOF,  
the parties hereto have executed this Agreement as of the \_\_\_\_\_ day of \*, 201\*.

**THE LAND FOR MAINE'S FUTURE BOARD**

By: \_\_\_\_\_  
[print name], Its Chair

**STATE OF MAINE  
Department of \***

By: \_\_\_\_\_  
[print name], Its Commissioner

**COOPERATING ENTITY  
\***

By: \_\_\_\_\_  
Print Name: [name of the person  
in executed Clerk Certificate]  
Title: \*

STATE OF MAINE, County of \*

Date: \*

**Then personally appeared the above-named \*, duly authorized \* (title) of \***

**[Insert name of Cooperating Entity] and acknowledged the foregoing to be his/her free act and deed in his/her capacity and the free act and deed of said \*.**

**Before me,**

\_\_\_\_\_

**Notary Public/Attorney at Law**

**Print Name:** \_\_\_\_\_

**My Commission Expires:**

**Seal:**

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**LAND FOR MAINE'S FUTURE FUND  
PROJECT AGREEMENT GENERAL PROVISIONS**

**Part I – DEFINITIONS**

1. The term “DSA” or “Agency” as used herein means the Designated State Agency as shown on Page 1 of the Project Agreement.
2. The term “Director” as used herein means the Commissioner or agency head of the DSA or any representative lawfully delegated the authority to act for such Director.
3. The term “Premises” as used herein means the lot or parcel or parcels of land as described and shown on Page 1 of the Project Agreement.
4. The term “Project” as used herein means a single project, a consolidated grant, a project element of a consolidated grant, or project stage which is subject to the Project Agreement, and as described on Page 1 of the Project Agreement.
5. The term “Cooperating Entity” as used herein means a political subdivision or instrumentality of the State of Maine or a non-profit conservation corporation which will implement the Project as provided in this Agreement.

**Part II – CONTINUING ASSURANCES**

The Cooperating Entity specifically recognizes that Land for Maine's Future Fund project assistance creates an obligation to acquire, use and maintain the conservation easement described in this Project Agreement consistent with Title 5, M.R.S., Section 6200 et seq., as amended, and augmented by *[insert bond statutory reference, i.e. P.L. 2009 c. 645, Sec. J or P.L. 2011 c. 696]*, and the following requirements:

**A. LEGAL AUTHORITY:** The Cooperating Entity warrants and represents that it possesses the legal authority to apply for the grant and to otherwise carry out the project in accordance with the terms of this Agreement, and has either marketable title to the Conservation Easement on the Protected Property or a binding Agreement to acquire the same. A resolution or similar action has been duly adopted by the governing body of the Cooperating Entity authorizing the filing of the proposal and implementation of the Project, including all understandings and assurances contained herein, and directing and authorizing the person identified as the official representative of the Cooperating Entity to act in connection with the proposal and to provide such additional information as may be required by the LMFB or the DSA and to enter into this



Agreement.

**B. FINANCIAL ABILITY:** The Cooperating Entity warrants and represents that it has the funds and the commitment to finance the cost share of acquisition together with all other costs of the Project, including for monitoring and management, except the Land for Maine's Future Fund share stated on the cover page of this Agreement.

**C. USE OF FUNDS:** The Cooperating Entity shall use moneys granted by LMFB only for the purposes of acquisition/access improvement of the Project as approved by LMFB and provided for herein.

**D. USE AND MAINTENANCE OF PREMISES:** The Cooperating Entity shall assure that the Protected Property shall be forever used, operated and maintained as prescribed in the Conservation Easement and this Agreement and all applicable laws, including without limitation Title 5, M.R.S. Section 6200 et seq., as amended and augmented by *[insert bond statutory reference, i.e. P.L. 2009 c. 645, Sec. J or P.L. 2011 c. 696]*. Permits and licenses necessary for the implementation of this Agreement or use of the Protected Property shall be obtained and complied with by the Cooperating Entity. All costs of acquisition or implementation of the Project and ownership and management of the Conservation Easement shall be paid by the Cooperating Entity, except as to the cost share to be provided by LMFB as specified herein. The Cooperating Entity shall ensure that appropriate signage is established and maintained on the Protected Property subject to the Conservation Easement in a prominent location to acknowledge the support of the Lands for Maine's Future Program.

**E. RETENTION AND CUSTODIAL REQUIREMENTS FOR RECORDS:** The Cooperating Entity shall keep a permanent record in the Cooperating Entity's property records, available for public inspection, to clearly document that the property described in this Project Agreement, and the signed and dated Project boundary map made part of this Agreement has been acquired with Land for Maine's Future Fund assistance and that it cannot be converted to uses other than those specifically provided by this Agreement without the prior written approval of the LMFB and the Director of the DSA..

Financial records, supporting documents, statistical records, monitoring records and all other records pertinent to this grant and the Project shall be retained by the Cooperating Entity and may be inspected by representatives of LMFB and the DSA during normal business hours.

**F. ANNUAL REPORTING REQUIREMENTS:** On each anniversary of this Agreement, the Cooperating Entity shall report on an annual basis on a monitoring form as approved by LMFB. The form shall be sent to: 1) the Director of the DSA; and (2) the Director of LMFB. For the purposes of this Agreement, the anniversary date for reporting purposes shall be the date of recording of this instrument in the applicable registry of deeds.

**G. RIGHT OF ENTRY:** Under the terms of the Conservation Easement, the DSA, its employees, agents and representatives, shall have the right to enter the Premises at all times and in any manner without prior notice to assure compliance with the terms of this Agreement and any applicable laws.

**H. PROVISIONS IN THE EVENT OF TRANSFER:**

**i. PRIOR NOTICE AND APPROVAL:** In the event of any intended sale or transfer, in whole or in part, of the Conservation Easement or any interest therein, the Cooperating Entity shall provide at least sixty (60) days prior written notice of the same to the DSA and LMFB and shall obtain written consent from the same prior to such transfer. The Cooperating Entity shall pay for reasonable administrative costs incurred by the DSA and LMFB in connection with said sale or transfer.

**ii. DISSOLUTION:** In the event of dissolution of the Cooperating Entity, at least sixty (60) days prior written notice of such shall be provided to: (1) the Director, DSA; and (2) Director, LMFB. Prior written consent to the transfer and disposal of the Conservation Easement shall be obtained from LMFB as with a conveyance of the Conservation Easement under Subsection H(i) unless the DSA requires that the Cooperating Entity transfer title to the Conservation Easement to the DSA or a successor designated by the DSA under Subsection I(d).

**iii. SUCCESSORS AND ASSIGNS:** Except as otherwise provided herein, this Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto. The Cooperating Entity shall incorporate the terms of this Agreement by reference in any deed or other instrument by which the Cooperating Entity sells or transfers any interest in all or a portion of the Conservation Easement. In the event that the LMFB or the DSA ceases to exist, the rights and responsibilities of that party shall automatically be vested in any successor agency designated by the Legislature. Failing legislative designation, the successor agency shall be as determined by the Governor.

**iv. SHARE IN PROCEEDS:** In the event of any sale, transfer, termination or condemnation of any or all of the Conservation Easement or disposal of the Conservation Easement pursuant to dissolution (hereinafter "transfer"), the Cooperating Entity shall pay to the Land for Maine's Future Fund, or to another fund designated by the LMFB, a share of the proceeds of the transfer. For the purposes of this Agreement, this share is defined as the product of:

- (a) the ratio of the value of the LMF's contribution to the value of the Conservation Easement as a whole as of the date of this Agreement, hereby established as \_\_%, multiplied by
- (b) the appraised value of the Conservation Easement, or portion thereof, which value shall be determined as the amount by which the fair market appraisal value of the Protected Property unrestricted by this Conservation Easement is reduced by the terms and conditions imposed by this Conservation Easement as of the date of transfer.

The LMFB may waive receipt of any proceeds, provided that the said funds are applied to conservation of a substitute property as approved by the LMFB. This payment to the fund shall not relieve the transferee of the continuing obligations to hold, manage and use the Premises

under the terms of this Agreement.

The State's share of proceeds shall be paid to the LMF at the time of the transfer, sale, condemnation or dissolution.

**I. ENFORCEMENT ALTERNATIVES:** In the event that the Cooperating Entity does not meet one or more of its obligations under this Agreement or the deed restrictions and covenants by which it holds title to the Conservation Easement, or in the event of dissolution of the Cooperating Entity, the DSA may exercise, in its sole discretion, any of the following remedies following written notice and thirty (30) days opportunity for the Cooperating Entity to cure the default:

- (a) any of the remedies or rights set forth in the Cooperating Entity's deed to the Conservation Easement;
- (b) the right to require specific performance on the part of the Cooperating Entity;
- (c) the right to a return of the State's share of proceeds as defined in Section H (iv); and
- (d) any other rights or remedies available at law or in equity including, but not limited to, the right to require that the Cooperating Entity perform remedial work and transfer title to the Conservation Easement to the DSA or a successor designated by the DSA under such terms and conditions as the court may require. In the event that the DSA exercises any of the rights available to it upon default of the Cooperating Entity, the Cooperating Entity shall reimburse the DSA for its costs of enforcement and collection, including reasonable attorney fees.

In addition to the foregoing remedies, it is understood and agreed that the Project creates a public charitable trust entitled to all the protections thereof under state law.

**J. AMENDMENT:** This Agreement may not be amended, in whole or in part, except with the written consent of all of the parties hereto.

**K. NOTICES:** Any notices or requests for approval required by this Agreement shall be in writing and shall be personally delivered or sent registered or certified mail, return receipt requested, or by other courier providing reliable proof of delivery, to the Cooperating Entity, the DSA and the LMF at the following addresses, unless one has been notified by the others of a change of address:

**To Cooperating Entity:**      *[insert name & address]*

**To DSA:**                              *[insert name & address]*

**To LMF:**                              c/o Director, Land for Maine's Future Program  
22 State House Station  
Augusta, Maine 04333-0022

NOTE: For the purposes of notice provisions under this Section K, the DSA and the LMFB shall be referred to collectively as the "State", and when being sent, notices shall be sent to both entities.

(a) In the event that notice mailed to the Cooperating Entity at the last address on file with the State is returned as undeliverable, the State shall send notice by certified mail, return receipt requested, or by such commercial carrier as requires a receipt, and by regular mail to the Cooperating Entity's last known address on file with the tax assessment records of the municipality of **/insert name of town where project land is located/**, Maine, and with the Bureau of Corporations, Secretary of the State of Maine, if applicable and the mailing of such notice shall be deemed compliance with the notice provisions of this Agreement. The Cooperating Entity's notices must include sufficient information to enable the State to determine whether Cooperating Entity's plans are consistent with the terms of this Agreement and the conservation purposes hereof.

(b) When the Cooperating Entity is required to obtain the State's prior written consent and approval, the Cooperating Entity's request shall be in the form of a written application and shall include sufficient details and specifications for the State to adequately review and analyze the same.

Within 60 days of receipt of a complete application, the State shall provide a written decision which shall grant, grant with conditions, withhold approval, or, with consent of the Cooperating Entity, extend the time within which to complete analysis of the application. The parties agree that the application and review process shall be completed as expeditiously as possible.

(c) The State shall not give written consent and approval unless the Cooperating Entity demonstrates to the satisfaction of the State that the proposed use or facilities is consistent with the terms, conditions, and purposes of this Agreement and will not diminish or impair the natural resources and scenic values of the Protected Property.

(d) In the event that the Protected Property is owned by more than one Cooperating Entity, the Cooperating Entity or its successor owners shall designate an agent responsible for the seeking of approvals from the State, and for the receipt of notices from the State. In the event that no single entity or agent is so designated, the approval of or notice to any executive officer of the Cooperating Entity shall be deemed the approval of or notice to all such owners.

# Appendix H

## Guidance for Working Forest Easements

In early 2001, an LMF Board easement subcommittee was formed to identify

- the essentials for any easement funded by the Lands For Maine's Future Program (LMF)
- elements that are desirable but not always necessary, and
- cautions related to various elements

The following guiding principles were adopted by the LMF Board on May 9, 2001. The Board recognizes that this is a working document, and that amendments and refinements are likely as experience dictates. The Board has also adopted a set of drafting guidelines for this type of easement that every potential applicant should read before preparing the easement. The guidelines describe both the required process for developing these easements and the recommended provisions to implement the intent of the policy objectives below. A copy of the guidelines is available on the LMF website.

There are two types of working forest easements – strip easements (primarily along water bodies), and landscape easements. Some elements are appropriate for one type and not the other. The Board further recognizes that in many cases, (e.g. ecological reserves, key recreation areas, boat launches and parking areas) fee purchase is probably a better tool and should be used alone or in concert with an easement.

The basic intention of a working forest easement is to protect both the natural values and economic values of the forest, along with its potential to provide traditional recreation opportunities for the public. Each easement will vary depending on the property involved and the goals of the grantor and grantee. Each easement should define existing conditions, contain a clear statement of goals, remedies for non-compliance and outline a process by which the landowner and easement holder can meet to review the easement and its implementation, ideally annually. It should enable the parties to mutually determine acceptable amendments to the easement to reflect changes in science or society while remaining faithful to the original goals.

**For working forest easements funded by the LMF, the Board will require:**

1. No additional (or very limited and clearly defined) additional non-forestry or non-recreation related development. Prohibition of commercial, industrial and residential uses

except for forestry and recreational uses, while allowing for existing types and scales of non-forestry uses to continue when consistent with easement goals.

2. Strict limits on division of the property, with the goal of maintaining large enough parcels to be a) cost effective to manage for timber production and recreation and b) cost effective for the holder to monitor compliance with easement terms. Allowable subdivision may include limited divisions of very large tracts and small subdivisions to correct boundary issues with abutters.
3. Rights for the public to use the property for traditional pedestrian recreational uses such as fishing, hiking, hunting, snowshoeing and nature observation. Central to this is extinguishing the landowner's right to enjoy or provide exclusive, private use. (Certain areas may be designated off limits to the public to protect fragile ecological or archaeological resources, privacy related to buildings, or public safety. A process should be established to incorporate additional areas at the mutual consent of the landowner and holder and to identify and close areas such as active harvest operations that involve safety hazards.)
4. An enforceable commitment to maintain (or enhance) the property's potential to provide a perpetual yield of fiber and timber. Recognizing the duration (forever) of an easement and the inability to predict the future of current forest uses, the emphasis here is on *potential* to provide, not a requirement to provide. Clear language must be included that defines sustainable management (taking into account forest history, productivity and potential for natural catastrophe), stipulates specifically how it shall be measured, and provides for independent review to determine if ongoing forest management meets these requirements. Remedies for non-compliance should be clear, stringent and easily enforceable.

**On a case by case basis, depending on size of the easement, conditions on the land or other factors, additional easement elements may significantly strengthen the value to the public as listed below. Whenever additional protections of forest conditions or rights to provide public use are included in an easement, the Board will require of the holder an estimate of annual costs for monitoring or management and how it plans to cover them.**

1. The Board recognizes that protection of ecological sustainability is very important. Additional protection of sensitive, rare or representative ecological features may be desirable. As part of the LMF proposal process, the potential holder will have assessed the ecological values of the property. Grantor and grantee should consider fee acquisition of areas of high ecological value in addition to the easement, or more stringent protections of certain natural communities, habitats or ecological health.

2. Requirements to include additional protections of visual quality, recreational features and/or riparian zones, or restrictions on intensive forest management practices such as herbicides and plantations.
3. Limitation of mining on the property to surface deposits of gravel, sand and shale for purposes of road construction and maintenance on the property only. Include caps on the number and size of borrow pits and establish reclamation procedures. In some cases (e.g. large landscape easements) it may be appropriate to allow mining of subsurface minerals. In such cases, strict limitations on areas disturbed and associated development should be stipulated to protect the main values of the working forest, undeveloped forest land and traditional public recreation, including associated aesthetics.
4. Rights to manage public recreation on the property. Clear goals for such management should be stated in the easement.
5. The right to construct, maintain, relocate and/or limit trails, parking, signs, and other structures on the property for motorized and/or non-motorized recreation.
6. The right to provide to the public vehicular use of certain roads across the property or to specific features (e.g. trail heads, water bodies) on the property. This may apply to motorized (e.g. snowmobile) trails, as well.

Such rights should not necessarily be required on strip easements. Since their primary aim is to keep water frontage undeveloped, water access is probably sufficient. Rights of way to the water or boat launches at specific locations may be stipulated or purchased in fee where appropriate.

When vehicular use is required, rights and obligations to maintain roads and trails must be addressed. The easement should define standards to which private roads and trails will be maintained as well as how maintenance costs are to be divided between the landowner and the holder.

7. Road access to the property. In many cases in the Maine woods, vehicle access may be customary, but not guaranteed by law. The Board should acquire access to properties under easement whenever possible.

# Appendix I

## Guidance for Agricultural Conservation Easements

Working farms form the landscapes which are the fabric of many Maine towns and villages, shaping their character and contributing to a community's quality of life. LMF typically supports the acquisition of agricultural conservation easements, (also known as conservation easements or the purchase of development rights) on viable, working farms. In some instances if there is clear commitment to keeping the land in agricultural production, LMF may support a farmland protection project involving a fee purchase by a qualifying cooperating entity. The potential applicant is strongly encouraged to consult with the Department's Bureau of Agriculture Food & Rural Resource staff. When ownership of working farmland or an interest in land (e.g. conservation easement) is held by a cooperating entity other than the Department of Agriculture, Conservation and Forestry, the cooperating entity will execute a Project Agreement with the State of Maine that contractually binds the terms of the project's management. This project agreement is recorded with the deed or easement, (see Appendix G, for a model LMF Project Agreement). The deed must also state that the parcel has been acquired as part of an LMF funded project.

LMF assists in the acquisition of agricultural conservation easements with a goal of protecting Maine's productive farmlands from conversion to non-agricultural uses. Agricultural conservation easements allow farmers to retain all other ownership rights; they can sell or continue to farm and they can diversify their agricultural enterprise and operation. Agricultural conservation easements funded by LMF must comply with LMF broad policies goals. Each easement will reflect the unique characteristics of the land and the agreement between the agency, cooperating entity, and the farmland owner(s).

All agricultural conservation easements funded by LMF will serve the conservation and agricultural purposes of the holder agency, meet the requirement of the Bond Issue, the Land for Maine's Future Act and any other applicable law. The following is a brief summary of these goals and requirements.

- Qualifications for Bond Funding: The 2009 Bond, (P.L. 2009, Chapter 645 Sec. J) and, 2011 Bond (P.L. 2011, Chapter 696), authorize expenditures by the Land For Maine's Future Program for the acquisition of lands and interests in lands for conservation, water access, outdoor recreation, wildlife and fish habitat and farmland protection and to access matching contributions from public in accordance with Title



5 M.R.S.A. Chapter 353. The easement will recite its reliance on these funds and may recite how it satisfies any specific criteria unique to the Bond issue.

- Authority to Acquire Easements: The authority of the agency or cooperating entity to acquire interests in land will be recited in “Whereas Clauses”;
- Title 5, Section 6207, subsection 3, requires the Land for Maine's Future Board to acquire, along with any interest in land that it acquires, the right of the public to access the land by vehicle whenever possible and appropriate. The State must at a minimum have access rights for monitoring and enforcement purposes of an easement.

The basic purpose of a LMF funded agricultural conservation easement is to protect the productive soils, preventing conversion of land to non-agricultural uses (e.g. subdivision, development etc.), provide for continued agricultural and forest use, and preserve other natural resource attributes as secondary values to the working farm. The Land for Maine's Future Program's process for planning and funding agricultural conservation easements is designed to:

- Provide points of contact and responsibility for each project;
- Establish clear conservation purposes and objectives that are consistent with the LMF statute and policies;
- Provide for sufficient legal review;
- Work collaboratively with sponsoring agency and other funding resources, such as USDA Natural Resources Conservation Service, Agricultural Conservation Easement Program – Agricultural Land Easement (“ACEP-ALE”) requirements.

The LMF Board understands that every farmland protection effort involves negotiation between the parties, (farm family members, land trust board members, etc.), who together carefully analyze the farm's size, condition, location, terrain, its soils and natural resource attributes, the owner's goals for the land, its current and potential future agricultural uses, threats and opportunities, and the interests of the State.

The Maine Department of Agriculture Conservation and Forestry and LMF have developed a “Standard Agricultural Conservation Easement Deed” that includes the required language for cooperating entities to use as a template in the first draft. The first draft of the easement should be provided by the State agency or the cooperating entity and their advisors to LMF. The “Standard Conservation Easement Deed” may be adapted to particular circumstances; sections may be added or deleted depending on the land and the land protection objectives for a project property. Each easement will be analyzed to determine if the provisions, landowner's reserved rights, and rights granted to the Holder serve those policies and the public benefit goals that guide them.

**Easement provisions** of agricultural conservation easements funded by LMF:

- Run with the land in perpetuity;
- Protect agricultural use and related natural resource attributes by limiting nonagricultural uses of the land;
- Prohibit subdivision of the property, with the goal of maintaining large enough parcels to be a) cost effective to manage for agricultural production of food, forage, seed and fiber, and timber production, and b) cost effective for the holder to monitor compliance with easement terms. Allowable division may include small conveyances to correct boundary issues with abutters.
- Provide an enforceable commitment to maintain (or enhance) the potential of the property to provide for long-term management of farmland and forest land in accordance with best management practices to prevent erosion, sedimentation and other degradation of soil and water resources.
- Retain the landowners' right to permit or forbid public use of the property for snowmobiling and traditional pedestrian recreational uses such as fishing, hiking, hunting, snowshoeing, nature observation, cross-country skiing, etc., and are consistent with the purposes of the conservation easement.
- If public access and use is a mutual goal of the cooperating entity and the farmland owner, then the easement and boundary survey must designate the location of public access and to insure that the agricultural purposes and uses of the property protected by the conservation easement are not threatened.
- Provide for permanent agricultural structures to be sited within a designated area of the property that is described in the easement and depicted on the boundary survey map of the property, i.e. a 'Farmstead Area', (this designated area includes the agricultural infrastructure and farm family and farm labor dwellings).
- Provide provisions for Right of Enforcement, General Indemnification, and Environmental Warranty.

# Appendix J

## Chapter 696 (2012 bond)

### Question 3: Bond Issue

Do you favor a \$5,000,000 bond issue to purchase land and conservation easements statewide from willing sellers for public land and water access, conservation, wildlife or fish habitat and outdoor recreation, including hunting and fishing and deer wintering areas, and to preserve working farmland and working waterfronts to be matched by at least \$5,000,000 in private and public contributions?

STATE OF MAINE  
Chapter 696  
Public Laws of 2011  
Approved May 29, 2012

**“An Act To Authorize a General Fund Bond Issue To Support Maine’s Natural Resource-based Economy”**

**Preamble.** Two-thirds of both Houses of the Legislature deeming it necessary in accordance with the Constitution of Maine, Article IX, Section 14 to authorize the issuance of bonds on behalf of the State of Maine to provide funds as described in this Act,

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. Authorization of bonds.** The Treasurer of State is authorized, under the direction of the Governor, to issue bonds in the name and on behalf of the State in an amount not exceeding \$5,000,000 for the purposes described in section 5 of this Act. The bonds are a pledge of the full faith and credit of the State. The bonds may not run for a period longer than 10 years from the date of the original issue of the bonds.

**Sec. 2. Records of bonds issued; Treasurer of State.** The Treasurer of State shall ensure that an account of each bond is kept showing the number of the bond, the name of the successful bidder to whom sold, the amount received for the bond, the date of sale and the date when payable.

**Sec. 3. Sale; how negotiated; proceeds appropriated.** The Treasurer of State may negotiate the sale of the bonds by direction of the Governor, but no bond may be loaned,

pledged or hypothecated on behalf of the State. The proceeds of the sale of the bonds, which must be held by the Treasurer of State and paid by the Treasurer of State upon warrants drawn by the State Controller, are appropriated solely for the purposes set forth in this Act. Any unencumbered balances remaining at the completion of the project in this Act lapse to the Office of the Treasurer of State to be used for the retirement of general obligation bonds.

**Sec. 4. Interest and debt retirement.** The Treasurer of State shall pay interest due or accruing on any bonds issued under this Act and all sums coming due for payment of bonds at maturity

**Sec. 5. Disbursement of bond proceeds.** The proceeds of the bonds must be expended as set out in this Act under the direction and supervision of the Department of Conservation.

1. The proceeds of the bonds for the Land for Maine's Future Board as set out in section 6 must be expended by the Department of Conservation for acquisition of land and interest in land for conservation, water access, outdoor recreation, wildlife or fish habitat, farmland preservation in accordance with the provisions for such acquisitions under the Maine Revised Statutes, Title 5, chapter 353 and working waterfront preservation in accordance with the terms of Public Law 2005, chapter 462, Part B, section 6, including all costs associated with such acquisitions, except that use of the proceeds of these bonds is subject to the following conditions and requirements.

A. Hunting, fishing, trapping and public access may not be prohibited on land acquired with bond proceeds, except to the extent of applicable state, local or federal laws, rules and regulations and except for working waterfront projects and farmland protection projects.

B. Payment from bond proceeds for acquisitions of local or regional significance, as determined by the Land for Maine's Future Board, may be made directly to cooperating entities as defined in Title 5, section 6201, subsection 2 for acquisition of land and interest in land by cooperating entities, subject to terms and conditions enforceable by the State to ensure its use for the purposes of this Act. In addition to the considerations required under Title 5, chapter 353, the board shall give a preference to acquisitions under this paragraph that achieve benefits for multiple towns and that address regional conservation needs including public recreational access, wildlife, open space and farmland.

C. The bond funds expended for conservation, recreation, farmland and water access must be matched with at least \$5,000,000 in public and private contributions. Seventy percent of that amount must be in the form of cash or other tangible assets, including the value of land and real property interest acquired by or contributed to cooperating

entities, as defined in Title 5, section 6201, subsection 2, when property interests have a direct relationship to the property proposed for protection, as determined by the Land for Maine's Future Board. The remaining 30% may be matching contributions and may include the value of project-related, in-kind contributions of goods and services to and by cooperating entities

D. Because portions of the State have deer populations that are struggling and deer wintering habitat protection is vital to the survival and enhancement of these populations, projects that conserve and protect deer wintering areas are considered to have special value and must receive preferential consideration during scoring of new applications for support under Title 5, section 6200 et seq.

E. To the extent the purposes are consistent with the disbursement provisions in this Act, 100% of the bond proceeds may be considered as state match for any federal funding to be made available to the State.

2. The Department of Conservation and the Department of Inland Fisheries and Wildlife shall take a proactive approach to pursuing land conservation projects that include significant wildlife habitat conservation, including conservation of priority deer wintering areas. Priority deer wintering areas are of at least 500 acres or contiguous with existing conservation land so that the combined acreage constitutes at least 500 acres, have been historically used by deer at some point since 1950 and are capable of providing shelter for deer on the effective date of this Act or within 20 years. The Department of Inland Fisheries and Wildlife shall include in conservation negotiations under this section provisions for the appropriate management of priority deer wintering areas. Land and interest in land purchased by the State that contains wildlife or fish habitat must be managed by the Department of Conservation using protocol provided by the Department of Inland Fisheries and Wildlife, and land and interest in land that is subject to a conservation easement and that contains wildlife or fish habitat must be managed using protocol provided by the Department of Inland Fisheries and Wildlife.

**Sec. 6. Disbursement of bond proceeds from General Fund bond issue.** The proceeds of the sale of the bonds authorized under this Act must be expended as designated in the following schedule.

**CONSERVATION, DEPARTMENT OF**

**Land for Maine's Future Board**

Provides funds in order to leverage \$5,000,000 in other funds to be used for the acquisition of land and interest in land for conservation; water access, wildlife or fish habitat including deer wintering areas; outdoor recreation, including hunting and fishing; and working farmland preservation and working waterfront preservation.

Total	\$5,000,000
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**Sec. 7. Contingent upon ratification of bond issue.** Sections 1 to 6 do not become effective unless the people of the State ratify the issuance of the bonds as set forth in this Act.

**Sec. 8. Appropriation balances at year-end.** At the end of each fiscal year, all unencumbered appropriation balances representing state money carry forward. Bond proceeds that have not been expended within 10 years after the date of the sale of the bonds lapse to the Office of the Treasurer of State to be used for the retirement of general obligation bonds.

**Sec. 9. Bonds authorized but not issued.** Any bonds authorized but not issued within 5 years of ratification of this Act are de-authorized and may not be issued, except that the Legislature may, within 2 years after the expiration of that 5-year period, extend the period for issuing any remaining unissued bonds for an additional amount of time not to exceed 5 years.

**Sec. 10. Referendum for ratification; submission at election; form of question; effective date.** This Act must be submitted to the legal voters of the State at a statewide election held in the month of November following passage of this Act. The municipal officers of this State shall notify the inhabitants of their respective cities, towns and plantations to meet, in the manner prescribed by law for holding a statewide election, to vote on the acceptance or rejection of this Act by voting on the following question:

"Do you favor a \$5,000,000 bond issue to purchase land and conservation easements statewide from willing sellers for public land and water access, conservation, wildlife or fish habitat and outdoor recreation, including hunting and fishing and deer wintering areas, and to preserve working farmland and working waterfronts to be matched by at least \$5,000,000 in private and public contributions?"

The legal voters of each city, town and plantation shall vote by ballot on this question and designate their choice by a cross or check mark placed within a corresponding square below the word "Yes" or "No." The ballots must be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the Secretary of State in the same manner as votes for members of the Legislature. The Governor shall review the returns. If a majority of the legal votes are cast in favor of this Act, the Governor shall proclaim the result without delay and this Act becomes effective 30 days after the date of the proclamation.

The Secretary of State shall prepare and furnish to each city, town and plantation all ballots, returns and copies of this Act necessary to carry out the purposes of this referendum.

**Intent and Content****Prepared by the Office of the Attorney General**

This Act would authorize the State to issue bonds in an amount not to exceed five million dollars (\$5,000,000) to raise funds for the acquisition of land and interests in land for conservation, water access, wildlife habitat (including deer wintering areas) or fish habitat, outdoor recreation (including hunting and fishing), and preservation of farmland and working waterfronts, subject to a number of conditions and requirements. The bonds would run for a period not longer than 10 years from the date of issue and would be backed by the full faith and credit of the State.

Proceeds of the sale of the bonds would be expended under the direction and supervision of the Department of Conservation, which has now been merged into the new Department of Agriculture, Conservation and Forestry. *See* Public Laws of 2011, chapter 657, section W-1 (effective Aug. 30, 2012). The funds would be expended in accordance with the provisions of the Land for Maine's Future statute, Title 5 chapter 353. The bond funds would be matched by five million dollars (\$5,000,000) of funds from other public or private sources.

The Act specifies that projects that conserve and protect deer wintering areas are to be given priority in the scoring of applications submitted to the Land for Maine's Future Board. It also directs the Department of Conservation and the Department of Inland Fisheries and Wildlife to be proactive in pursuing conservation of priority deer wintering areas – defined as areas containing at least 500 acres of land (including the acreage of any contiguous land that is already conserved) that have been used by deer at some point since 1950 and are capable of sheltering deer as of the effective date of this Act or within 20 years. Land and easements purchased by the State for wildlife or fish habitat protection must be managed using protocols provided by the Department of Inland Fisheries and Wildlife.

Payment of bond proceeds may be made directly to “cooperating entities” to acquire land or interests in land of local or regional significance. In awarding funds for such projects, the Land for Maine's Future Board is required to give preference to acquisitions that achieve benefits for multiple towns and address regional conservation needs including public recreational access, wildlife, open space and farmland. “Cooperating entities” are defined in statute (Title 5, section 6201, subsection 2) to include local governments, municipal conservation commissions, federal agencies, private nonprofit organizations, and other entities designated by the Land for Maine's Future Board as able to assist the State in the acquisition or management of conservation lands.

Bond funds expended for conservation, recreation, farmland and public access to water must be matched with an equivalent amount of funding in public and private contributions. Seventy percent (70%) of the match for each project must be in the form of cash or other tangible assets, which may include the value of any land or other real property

interests being acquired by or contributed to cooperating entities. The remaining 30% of the match may be in the form of in-kind contributions of goods or services related to the project, made by or to cooperating entities.

Any grants awarded by the Land for Maine's Future Board with these bond proceeds for working waterfront projects must be made in accordance with the terms of the Working Waterfront Access Pilot Program established by the Public Laws of 2005, chapter 462, part B.<sup>4</sup> This means each grant must be matched, dollar for dollar, by the organizations or local governments receiving the award and must be made subject to a condition that the property not be used, altered or developed in a manner that precludes its use by commercial fisheries businesses. The state must retain a permanent right of first refusal on any waterfront property that is acquired with bond proceeds, or is protected by an easement acquired with bond proceeds.

With the exception of working waterfront projects and farmland protection projects, hunting, fishing, trapping and public access may not be prohibited on lands acquired with these bond proceeds, except to the extent of applicable federal, state or local laws and regulations.

If approved, the bond authorization would take effect 30 days after the Governor's proclamation of the vote.

A "YES" vote favors the issuance of up to five million dollars (\$5,000,000) in general obligation bonds for the above activities.

A "NO" vote opposes the bond issue in its entirety.

#### **Debt Service**

##### **Prepared by the Office of the Treasurer**

Total estimated life time cost of borrowing this amount of money is **\$6,237,500** representing **\$5,000,000** in principal and **\$1,237,500** in interest (assuming **4.50%** over **10** years).

#### **Fiscal Impact Statement**

##### **Prepared by the Office of Fiscal and Program Review**

This bond issue has no significant fiscal impact other than the debt service costs identified above.

#### **Public Comments**

No public comments were filed in support of or in opposition to Question 3.

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<sup>4</sup> This pilot program has since been established in statute as the Maine Working Waterfront Access Protection Program. See Public Laws of 2011, chapter 266, part B (effective Sept. 28, 2011), enacting new language in Title 5 chapter 353 (the Land for Maine's Future statute) and in Title 12 (the Department of Marine Resources statute).



## Appendix K

### Deer Wintering Area Guidance and Wildlife Management Districts

Section 5 of the statute that authorized the 2012 bond states:

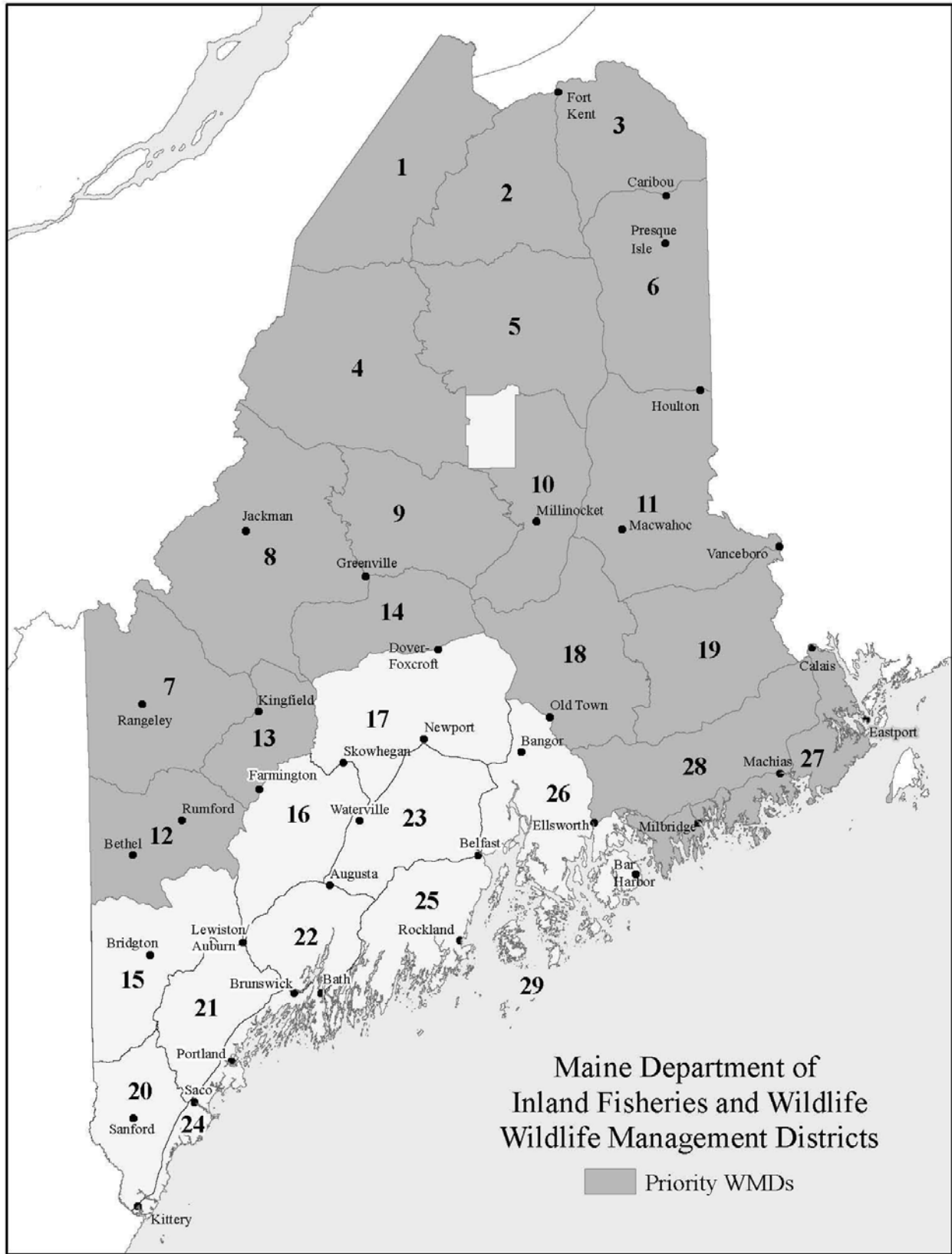
“... The Department of Inland Fisheries and Wildlife shall include in conservation negotiations under this section provisions for the appropriate management of priority deer wintering areas. Land and interest in land purchased by the State that contains fish and wildlife habitat must be managed by the Department of (Agriculture, Conservation and Forestry) using protocol provided by the Department of Inland Fisheries and Wildlife, and land and interest in land that is subject to a conservation easement that contains wildlife or fish habitat must be managed using protocol provided by the Department of Inland Fisheries and Wildlife.”

The complete statute is located in Appendix J.

A sample long-term Habitat Management Area Agreement can be found at:  
[www.maine.gov/dacf/lmf/publications.shtml](http://www.maine.gov/dacf/lmf/publications.shtml) .

#### FOR MORE INFORMATION:

- Applicants who may submit proposals that contain Deer Wintering Areas should contact Bethany Atkins, MDIFW at (207) 287-#5878 or [bethany.atkins@maine.gov](mailto:bethany.atkins@maine.gov)
- If the proposals involve potential State ownership of the land or a conservation easement, applicants should contact Liz Petruska, BPL, at (207) 557-0352 or [liz.petruska@maine.gov](mailto:liz.petruska@maine.gov)
- Questions regarding LMF funding for these proposals may be addressed to Sarah Demers, LMF, at (207) 287-7576 or [sarah.demers@maine.gov](mailto:sarah.demers@maine.gov)



# Appendix L

## Access Improvement Grants Fact Sheet for Applicants

### **Purpose**

Access improvement grants are available to enhance the public accessibility to land that is acquired with proceeds from the Land for Maine's Future Fund and the Public Access to Maine Waters Fund.

Access improvement grants enhance Land for Maine's Future (LMF) acquisition dollars by making conserved land more accessible to the public. Grants may be for the upgrade of access roads, the addition of parking, trails, and boat launches, or the installation of signage, information kiosks, and picnic tables.

Access improvement grants may also be used for farmland projects to fund the development of a business plan and capital improvements on the farm, such as improving drainage or constructing storage sheds.

### **Funding Availability**

In statute, access improvement grants are limited to 5% of the appraised value of the acquired property, but the Land for Maine's Future Board (LMFB) routinely establishes a set-aside for these grants based on funds available.

At the present, the LMFB has agreed to fund access improvement grants in an amount up to 2% of the LMF board's financial contribution to the project, if funding is available.

In addition, the LFMB has adopted incentives for access improvement projects that are designed to facilitate use by people who may have physical limitations or impairments, sometimes called adaptive recreation. Currently, the Board has approved an additional 2% to support access improvement projects that encourage increased use by persons with physical limitations or impairments. The Bureau of Parks and Lands is available to provide resources and Best Management Practices for the development of ADA compliant and adaptive recreational opportunities.

### **Eligibility**

A landowner of LMF funded land may apply for an access improvement grant to fund minor capital improvements to improve accessibility on the LMF funded land and on adjoining lands in the same ownership or under the same management.

Access improvement grants are not offered for lands which are protected by conservation easements unless easement terms explicitly allow the easement holder to make access improvements to the land covered by the easement.

LMF staff will contact the applicant to inform them of the application process and amount of funds available for their access improvement project.

### **Application Criteria**

Projects must meet the following criteria for access improvement grants:

- The proposed improvements do not compromise the original intent for which the property was purchased.
- The proposed project improves accessibility of the LMF funded lands, consistent with management objectives. If access improvement funding is for abutting lands under the same ownership or management, then the access improvements must offer a benefit to users of the LMF funded parcel.
- Public uses are supported and/or enhanced by the project.

### **Application Process**

1. LMF staff will contact you with information about the funds available, application process and deadline for submissions.
2. Applications are reviewed by LMF staff to determine eligibility and completeness.
3. If the applicant is an entity other than the State (e.g. land trust or municipality), the application is reviewed by staff from the applicants Designated State Agency to ensure the project is consistent with the objectives of the original acquisition project.
4. A sub-committee of the board reviews the application against the purposes and objectives of the access improvement funds and makes a recommendation to the Board for their approval.

### **Application Format and Instructions**

Your proposal should contain the following information:

1. Applicant Name - Name, address, phone number, and email of the applicant and the primary contact person.
2. Date of Application - Date you submitted application for access improvement funds.
3. Project Title & LMF Property – name of your access improvement project and name of project and date of closing of the LMF-funded project for which access improvements are proposed.

4. Geographic Location of Project - town and county including the land on which the access improvements will be made.
5. Map(s) – General property map, map depicting the location of the primary access point of the site, any other public access points to the property, and the location of the property to which access improvements are proposed to be made. Maps should be at a scale suitable to show the location of the proposed improvements.
6. Grant Amount - Amount of funds being requested from LMF.
7. Project Budget - Itemization of how the funds will be used and identification of sources and amounts of matching funds.
8. Project Description - Narrative of what improvements are proposed, how the improvements will enhance accessibility and public use of the LMF funded lands and how the project is consistent with the recreation, public access and conservation objectives of the original acquisition project.
9. Suitability of Intended Use - Description that demonstrates that the property has no legal constraints preventing the development and use of the proposed access and that the physical characteristics of the site are suitable for the intended access.
10. Impact on Natural Resources – Description of any impact the proposed access will have on the natural and cultural resources of the property and the surrounding land. Demonstrate that the intended access is consistent with property's management objectives. Consultation with the Maine Natural Areas Program, Maine Department of Inland Fisheries and Wildlife and Maine Historic Preservation is recommended.
11. Project timeline - Identify key milestones and dates for completion.
12. Adaptive Access – If the applicant is seeking supplemental funding for adaptive access, include a description of the specific design aspects of the project that will encourage and increase use of the property by people with physical impairments or disabilities. Describe what resources you have used to ensure your improvements are consistent with accessibility guidelines.
13. The Board requires that the Land for Maine's Future Program be acknowledged in permanent signage at the primary access point of the site. LMF provides silk-screened, metal signs with LMF logo for this purpose. Please indicate in your proposal if you will need additional signs.

Eight copies of your proposal should be sent to:  
Land for Maine's Future Program  
Dept. of Agriculture, Conservation & Forestry  
22 State House Station  
Augusta ME 04333-0022

**Completion of Access Improvement Grant Projects**

Projects must be completed within 18 months of grant award date, unless the project has prior written approval from the LMF project manager for an extension. A one year extension may be granted at the project manager's discretion if circumstances warrant, following notice to the LMF Director. Any additional extensions must be approved by the LMF board.

**Grant Reporting Requirements**

Grant recipients must submit a written report upon completion of the access improvement project. The report must describe the access improvements made and the ways it enhances public uses and include documentation of how the funds were expended and photographs of the completed work. Completed access improvement projects will be included in the LMF Biennial Report, as part of the report to the public about progress achieved by the program.

**Advance and return of access improvement funds**

LMF will enter into a contract with each cooperating entity selected for an access improvement grant. LMF will be responsible for managing the contracts and ensuring funds are used consistent with the project proposal. LMF staff will approve payments for work that has been completed and upon receipt of all paid invoices. Any unspent funds will remain available for future Board allocations.

For access improvement grants to state agencies, the funds will be journaled directly to the state agency upon approval of application. The agency is responsible for returning all unused funds within 6 months of completion of project. LMF shall enter into a Memorandum of Agreement with the DSA for their access improvement grants. The MOA will state the terms and indicate the expiration dates and be signed by the Commissioner of the DSA.

**Resources:**

- USFS trail accessibility guidelines:  
<http://www.fs.fed.us/recreation/programs/accessibility/>
- American Trails: <http://www.americantrails.org/resources/trailbuilding/>
- National Park Service boat launch guidelines:  
<https://www.nps.gov/ncrc/programs/rtca/helpfultools/launchguide.pdf>

**References**

- *Memo to LMF Board - November 2014 (Attachment B to meeting agenda)*
- *Jody Harris memo to LMF Board - July 12, 2011 (Attachment H to meeting agenda)*
- *Fact Sheet for Applicants - November 2011*
- *Tim Glidden memo to Board - July 12, 2010*

- *Format for Application – Bureau of Parks and Lands developed a good template May 7, 2012 (Seboeis Lake Unit, Bigelow Timber acquisition)*
- *Board criteria for evaluating applications - January 2006*

*Document locations: L/Access Improvement Grants/ Access Improvement Grants fact sheet for applicants UPDATED Nov. 2014*

# Appendix M

## Frequently Asked Questions

**Q1. What types of land can be acquired through the Land for Maine's Future Program?**

- A. Lands and interests in lands offering opportunity for conservation of lands supporting vital natural areas, wildlife and fish habitat, water access, traditional outdoor recreation, and farmland protection. Commercial working waterfront protection along Maine's coast is accomplished under a program jointly administered with the Department of Marine Resources.<sup>5</sup>

**Q2. Who can be a "cooperating entity"?**

- A. Private nonprofit charitable organizations, private foundations, municipal conservation commissions, and local governments are considered cooperating entities. For a private nonprofit organization seeking to hold easements funded by Land for Maine's Future Program, the holder/applicant shall provide documentation that the organization meets the holder requirements, as per Maine Conservation Easement statute, (M.R.S.33 Chapter 7, Subchapter 8-A), and has a mission statement pertaining to land conservation activities. In addition, the Land for Maine's Future Board may designate other groups to assist the State in the acquisition and management of public lands. In cases of regionally or locally significant projects, the Board may also accept a cooperating entity as title holder for a given acquisition.

**Q3. Who will own the land or conservation easements acquired by the Program?**

- A. Title for projects of state significance as determined by the Board will be held by the appropriate state agency. In the case of projects of regional and local significance, an approved cooperating entity may hold title providing that entity can demonstrate to the Board their ability to manage the land for the purpose for which it was acquired. The State of Maine and the cooperation entity enter into a project agreement that gets filed at the respective registry of deeds.

**Q4. Who will manage the land acquired by the Program?**

- A. Management responsibilities for the acquired lands and interests in lands will be the responsibility of the State agency or cooperating entity holding title. Management of lands held by the State may be accomplished through a partnership with a cooperating entity through a management agreement. When a cooperating entity

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<sup>5</sup> For further information contact Deirdre Gilbert, Department of Marine Resources, (207) 624-6576, [deidre.gilbert@maine.gov](mailto:deidre.gilbert@maine.gov).



holds the land or interest in land it will execute a project agreement with the sponsoring state agency that contractually binds the terms of the project's management. This agreement is recorded with the deed or easement. A model of the Project Agreement is included in Appendix G.

**Q5. What are "matching funds" and what guidelines apply?**

A. All projects are expected to have matching funds of at least 50% of the total eligible project costs. This means that for every \$1 of LMF funds there must be at least \$1 of match value. At least 70% of the match must be in the form of land, cash, or other tangible assets. The value of lands or interest in lands acquired within 2 years of the date of project proposal may be used as tangible match when the property interests have a direct relationship to the project. No more than 30% of the match can be the value of services customarily associated with land acquisition (i.e. appraisal, survey, title work, legal work, ecological and archeological inventory) defined by the LMF statute as "intangible" match. The required match amount and source must be detailed within the project proposal. The match contributions must be received by the applicant no later than the receipt of LMF's contribution of funds (i.e., at closing). This does not preclude the applicant from using funds that will be reimbursed by other non-state funding. Match is discussed further in Section One "Threshold Criteria", Appendix D – Form for Proposal Budget and, under each proposal type.

**Q6. When is municipal or county approval of a land acquisition required?**

A. Approval by the elected municipal officials is required when more than 1% of a municipality's state valuation is considered for acquisition with funds from the Land for Maine's Future Program. Similarly, approval by the county commissioners is required if the land proposed to be conserved lies within unorganized territory and constitutes more than 1% of the state valuation within that county.

**Q7. What interests in land may be purchased by the Program?**

A. The LMF can support acquisition of a full range of interests in land including:

- fee simple acquisition; and
- less-than-fee simple interests including, but not limited to, permanent conservation easements, permanent access easements, working waterfront covenants and other permanent interests in land.

**Q8. Can the LMF fund be used to fund capital improvements?**

A. The LMF Fund can only be used to fund minor capital improvements on acquired lands to improve public access, as long as these improvements do not compromise the original intent for which the property was purchased. In practice the Board limits most of its grants under this provision up to 5% of the LMF project contribution. The Board will make a larger grant under this program to the extent the additional amount is based on the costs of providing access specifically for disabled or handicapped persons. In the case of the purchase of development rights

on farms, up to 5% of the appraised value may be used to develop a business plan and capital improvement for the farm.

**Q9. What does the law exclude from consideration?**

- A. The law specifically excludes using bond funds to acquire any of the following:
- buildings or other structures unrelated to the intended use of the property,
  - land for facilities or organized recreational activities; (e.g. ballparks, tennis courts, or playgrounds).
  - capital improvements on any publicly owned facilities; and
  - fee purchase of land of which the primary use value will be as commercially harvested or harvestable forest land.

**Q10. What types of land are identified by the law as eligible for potential acquisition?**

- A. Eligible lands include:
- recreation lands;
  - prime physical features of the Maine landscape;
  - areas of special scenic beauty;
  - farmland or open space;
  - undeveloped shorelines;
  - wetlands;
  - fragile mountain areas;
  - habitat for plant or animal species or natural communities considered rare, threatened, or endangered in the State;
  - wildlife or fish habitat including deer wintering areas;
  - public access to recreation opportunities or those natural resources identified above;
  - lands with other conservation, wilderness or recreation values; and
  - Working waterfront lands serving commercial fisheries

Potential applicants are strongly encouraged to review the LAPAC report for further discussion on conservation priorities among these resources. The report is available from the LMF staff and is on the LMF website.

**Q11. What is a Farmland Protection Project?**

- A. Farmland projects are to be submit under Conservation and Recreation and are to choose "Farmland and Open Space" as the Major Land Asset. A Farmland Protection Project can provide Maine farmland owners with an alternative to selling farmland to other land development use and preserve prime agricultural lands. The Land for Maine's Future Program works in partnership with the Maine Department of Agriculture, Conservation and Forestry (DACF), Bureau of Agriculture Food and

Rural Resources, nonprofit cooperating entities, towns, and farmers to develop proposals focused specifically on farmland protection. In addition, federal funds may be available through the USDA Farm and Ranch Lands Protection program as match with LMF Funds. LMF typically supports the acquisition of agricultural conservation easements. LMF may also support the acquisition of farmland in fee by a project partner (town or land trust) if there is a clear commitment to keeping the land in agricultural production. In the case of an easement, current and future agricultural uses of the land are protected by prohibiting conflicting, non-agricultural uses (i.e. subdivision, housing development, etc.). The conservation easement is held by an approved cooperating entity (e.g. town or land trust) or occasionally by the State through the DACF. The landowner is compensated for this restriction on a “willing buyer/willing seller” basis. This can help an existing farm landowner to maintain the availability of his or her farmland for agricultural production, forever. Agricultural conservation easements allow farmers to retain all other ownership rights; they can sell or continue to farm and they can diversify their agricultural enterprise and operation; they just can't grow houses. If they do sell, their land will be valued as farmland, which often makes it more affordable for the next generation of farmers.

**Q12. Who can propose land for acquisition by the Program?**

A. Anyone can nominate or propose land for acquisition by LMF Program, when sponsored by a designated state agency as long as the threshold criteria, the criteria of the sponsoring state agency, and proposal requirements are met. The proposal must include a written statement from the landowner with their consent that the property is being proposed to the Program.

**Q13. When can proposals be submitted?**

A. Whenever the Board issues a call for proposals. Contact the Program Director for the opening and closing dates of the current proposal period. The Conservation-Recreation and Farmland proposals must be received by LMF no later than 5pm on September 1, 2017. Proposal inquiries can be submitted any time during the year for staff review and feedback (see Inquiry Forms provided in Appendices A and B). Anyone who has submitted an inquiry during the year will be notified when full proposals will be accepted. There is a separate proposal process for water access projects which may be processed at any time (see Section III).

**Q14. How will the proposed properties be scored?**

A. After the information in a proposal is reviewed by the program staff, the Staff will score the proposal. The Board then hears presentations from applicants and may adjust the staff scores. The Board then meets to review their adjusted scores and consider Other Board Considerations. The Board then enters into executive session to determine preliminary allocations. The Board then votes in a public session to select finalists. See Scoring System in Sections II and III for the detailed scoring procedures.

**Q15. Who will appraise the lands proposed for acquisition?**

A. If an appraisal has been conducted by or is available to an applicant it should be included as part of the proposal. The Board may decide to accept an existing appraisal or may request that an applicant provide a new or updated appraisal. If an applicant provides an appraisal to the Board and it is accepted, he/she may apply the documented cost of the appraisal as match. Any appraisal must be an arm's length appraisal conducted by a Maine certified general real estate appraiser and must conform to the standards outlined in Appendix F. Appraisals solely commissioned by the landowner or with the landowner as the sole client will not be accepted.

**Q16. Will LMF support projects when the landowner wants a price higher than the appraised value?**

A. The LMF Board will not generally participate in purchases which exceed fair market value as established by independent appraisal. This policy applies even where the extra funds are drawn from other sources. Such sales can make future conservation projects more expensive. In extraordinary cases, the Board will consider exceptions to this policy.

**Q17. How will an applicant know the status of his/her proposal?**

A. All applicants will be notified by mail as to the status of their proposals when the scoring and evaluation process is complete. An applicant may call the Program staff at any time and inquire about the status of his/her proposal. If a potential applicant submits an Inquiry Form, he/she will receive a letter which may also provide guidance on whether the proposal is aligned with the Program's priorities.

**Q18. What considerations does the Board want to see reflected in conservation easements?**

The Board may fund acquisition of conservation easements on parcels of land to protect key public values. Any easement proposal considered by the Board is expected to address the following elements:

1. Conservation purpose of the easement and description of natural resources to be protected,
2. Restrictions on development and subdivision (building, mining, road construction, etc.) that are inconsistent with the conservation purposes,
3. Provisions for public access (pedestrian, water access, vehicle access, etc.),
4. Accommodations for public use/recreation,
5. Private uses to be maintained/continued, and
6. See also Appendix G "Guidance for Working Forest Easements" and Appendix H "Guidance for Agricultural Conservation Easements".

**Q19. Are pre-acquired properties eligible for reimbursement?**

- A. Lands or interest in lands acquired within 2 years of the date of project proposal may be considered for reimbursement when the pre-acquisition was conducted on behalf of the sponsoring agency **or** the sponsoring agency was aware of and supported the pre-acquisition. LMF contribution will be no more than at the Board approved amount, not to exceed the actual purchase price or appraised value whichever is less. Any duly appraised value in excess of actual purchase price may be used as match.

# Appendix N

## Due Diligence & Closing Procedures

Once a project proposal is selected by the Land for Maine's Future Board as a Finalist, a series of due diligence steps must be completed to the satisfaction of the LMF Board and to comply with legal requirements. The completed reports, maps and various legal documents are submitted for LMF's review and acceptance. Unless otherwise noted below, all due diligence is completed by the applicant and coordinated with LMF staff for review and acceptance by LMF prior to disbursement of funds.

**Table 1: LMF Due Diligence Procedures**

- NGO/Applicant: submit CE document to LMF for preliminary review prior to completing appraisal.<sup>6</sup>
- NGO/Applicant Submit copy of recorded deed of project property;
- NGO/Applicant Submit Appraisal Report for LMF review, acceptance and Board approval; (see Appendix F for appraisal specifications)
- LMF issues Public Notice prior to Board meeting to approve funds;
- NGO/Applicant Submit Purchase & Sale Agreement; (LMF should be contacted in advance to review);
- NGO/Applicant Submit Title Report, Title documents for LMF legal review and acceptance;
- NGO/Applicant Submit Boundary Survey map with updated Legal Description for LMF review and acceptance; GIS-shape file provided to LMF of final accepted boundary survey map;
- NGO/Applicant Submit Phase I Environmental Site Assessment report to LMF;
- NGO/Applicant Submit Evidence of Title Insurance Commitment with state agency named as an additional insured (Conservation Easement projects included);
- NGO/Applicant Obtain subordination agreement, e.g. mortgage (if applicable);
- NGO/Applicant/Designated State Agency (DSA) submit CE for LMF review, approval and finalizing by LMF attorney;
- NGO/Applicant coordinates with LMF and submits completed State of Maine Vendor Form to authorize State payment of funds, (to sellers, escrow agent, etc.)
- NGO/Applicant For CE projects, complete Baseline Document with land owner and State Agency, reviewed and accepted by all parties prior to scheduled Closing;
- LMF attorney confirms status of Certificate of Corporate Good Standing;
- NGO/Applicant Submit executed Certificate of Corporate Authority; (Sample format available from LMF);
- LMF confirms Project Agreement approved by LMF, DSA, and NGO/Cooperating Entity;
- NGO/Applicant confirms with LMF status of project Match;
- NGO/Applicant provides LMF with written confirmation of Monitoring and Management Cost Estimate(s);
- Landowner confirmation to NGO/Applicant attorney and LMF attorney real estate taxes are paid in full;
- NGO/Applicant with input from LMF and DSA: Closing Statement drafted, reviewed and finalized;
- LMF funds ordered for a scheduled Closing.

*See next page for supplemental Post-Closing information →*

<sup>6</sup> "CE" means conservation easement. "NGO" means non-governmental organization.

**Table 2: Completion of the following tasks required prior to disbursement of LMF funds**

- **NGO/Applicant** obtains Title Insurance confirms with a copy of Title Commitment;
- **LMF Attorney / Closing attorney** updates Title to the time of recording Warranty Deed or CE;
- **LMF attorney / Closing attorney** record at applicable County Registry of Deeds:
  - Warranty Deed - or- Deed of Conservation Easement legal description;
  - executed LMF Project Agreement;
  - surveyor certified and dated Boundary Survey map;
  - Subordination Agreement(s)

**Table 3: Post- Closing activities**

- **Project Closing Packages** provided to LMF and project principals (preference is for this documentation to be provided to principals within 6-8 weeks after closing);
  - **LMF** provides Project Closing Packages for acquisitions held by a State agency;
  - **Cooperating Entity** of a locally-held acquisition provides Project Closing Packages, with input from LMF attorney and Closing attorney.
- **LMF** provides a “LMF sign” to the NGO/ Landowner for installation at main entry of public access to the LMF project property or other prominent location;
- **LMF** contracts with ME Historic Preservation Commission or ME Natural Areas Program to conduct, if applicable to the property, an Archaeological survey or Natural Resource Inventory survey (subject to availability of funds);
- **Cooperating Entity** for a locally-held acquisition, completes and submits ANNUAL PROJECT AGREEMENT MONITORING REPORT to LMF and Designated State Agency;
- **NGO /LMF** Press Release prepared in coordination and approved by LMF;
- **NGO** issued maps, brochures, webpages provide information about LMF and LMF funded project property, including acknowledgement of LMF funding;
- **DSA** - held or **Cooperating Entity** - held conservation easement: an easement record is added to the entity’s account with the ME Easement Registry; this record is annually updated and easement monitoring is completed at least once every 3 years.