

Organizational Structure and Position Classification Listing

BOARD COMPOSITION AND STAFF

Board

The nine-member board consists of six public citizens and three commissioners representing the departments of Agriculture, Conservation, and Forestry (ACF), Inland Fisheries and Wildlife (IF&W), and Marine Resources (DMR)

As specified in the authorizing legislation 5 MRSA, Section 6204, “The 6 public members must be selected for their knowledge of the State’s natural resources and landscape, and their demonstrated commitment to land conservation. Appointments must provide broad geographic representation.” These members are appointed by the Governor, subject to review by the Legislature’s Joint Standing Committee on Agriculture, Conservation and Forestry and to confirmation by the Legislature. By statute, board members are limited to serving two consecutive terms.

The basic structure of the program is presented in Figure 1-1.

The current citizen members of the board and their terms of service are:

Benjamin R. Emory, Salisbury Cove; 11/14/2010 - 11/13/2014
James W. Gorman, Jr., Freeport; 04/04/2012 - 01/31/2016
Vacant Seat (formerly held by Norman Gosline, Gardiner, term expired on 01/31/2015)
James Norris, Winthrop; 03/12/2013 - 01/31/2016
Neil Piper, Gorham; 03/18/2014 – 01/31/2018
William J. Vail, Saco; (appointed Chair by the Governor in 2012) 04/04/2012 - 11/13/2015
Patrick Keliher, Commissioner, Department of Marine Resources
Walt Whitcomb, Commissioner, Department of Agriculture, Conservation & Forestry
Chandler Woodcock, Commissioner, Department of Inland Fisheries and Wildlife

BOARD COMMITTEES AND WORKING GROUPS

Appraisal Oversight Committee

Jim Norris, Chair
Ben Emory
Jim Gorman
Neil Piper
Vacant

Easement Review Committee

William Vail
Jim Norris
Ben Emory
Vacant

Scoring Committee

Ben Emory, Chair
Patrick Keliher
Jim Gorman
Neil Piper

Nominations Committee

Jim Norris
Walt Whitcomb
Chandler Woodcock

SPECIAL INITIATIVES WORKING GROUPS

DMR Commissioner's Working Waterfront Protection Program Review Panel

LMF chair serves as LMF representative

Deer Wintering Area Work Group

William Vail, Chair

James Gorman

Vacant Seat (formerly held by Norman Gosline, Gardiner, term expired on 01/31/2015)

Patrick Keliher

Chandler Woodcock

Proposal Selection and Review Process Work Group

Neil Piper, Chair

Vacant Seat (formerly held by Norman Gosline, Gardiner, term expired on 01/31/2015)

William Vail

Patrick Keliher

Walt Whitcomb

Sarah Demers

Kathy Eickenberg

Public Members: Jeff Romano, William Bayreuther, Angela Twitchell

Conservation Easement Review Work Group

Ben Emory

James Gorman

James Norris

Public Members: Carrie Kinne, Karin Marchetti-Ponte

Staff

The program is supported by staff located within the Department of Agriculture, Conservation and Forestry's Bureau of Resource Information and Land Use Planning that administers the project management and approval process, which can, on occasion, include all aspects of negotiation, due diligence review, baseline evaluation, and project development related to real estate transactions. This staff also provides support to the board and its working committees.

In 2013, upon legislative approval of the merger of the Department of Conservation and the Department of Agriculture into the Department of Agriculture, Conservation and Forestry, the LMF Director position was re-established as a civil service, competitive position. Ms. Sarah Demers assumed this role on February 16, 2015. The previous director, Mr. C. Ed Meadows, retired in December 2014.

The current program staff are:

- Tom Miragliuolo
- Sam Morris
- R. Collin Therrien

A position classification listing is provided in Figure 1-2.

The Program relies on the expertise of various staff from the Maine Department of Agriculture, Conservation and Forestry, Inland Fisheries and Wildlife, Marine Resources, State Historic Preservation Office, and numerous federal partner agencies in many aspects of its work.

Legal counsel for conservation projects is provided through a cooperative agreement with the Maine Department of Transportation (MDOT). The MDOT Legal Division provides title and legal research services to include project agreements and easement reviews. The Attorney General's Office is the counsel for the Board's functions, interpreting legal questions relating to LMF statutes, policies and process.

Non-profit land trusts, municipalities, and other cooperating entities (as defined in statute), as applicants, assist the program in the development of projects, working with landowners, completing important due diligence such as boundary surveys, title work and providing matching funds. These arrangements provide substantial leverage to the LMF funds and efforts of program staff.

Figure 1-1. Land For Maine's Future Program

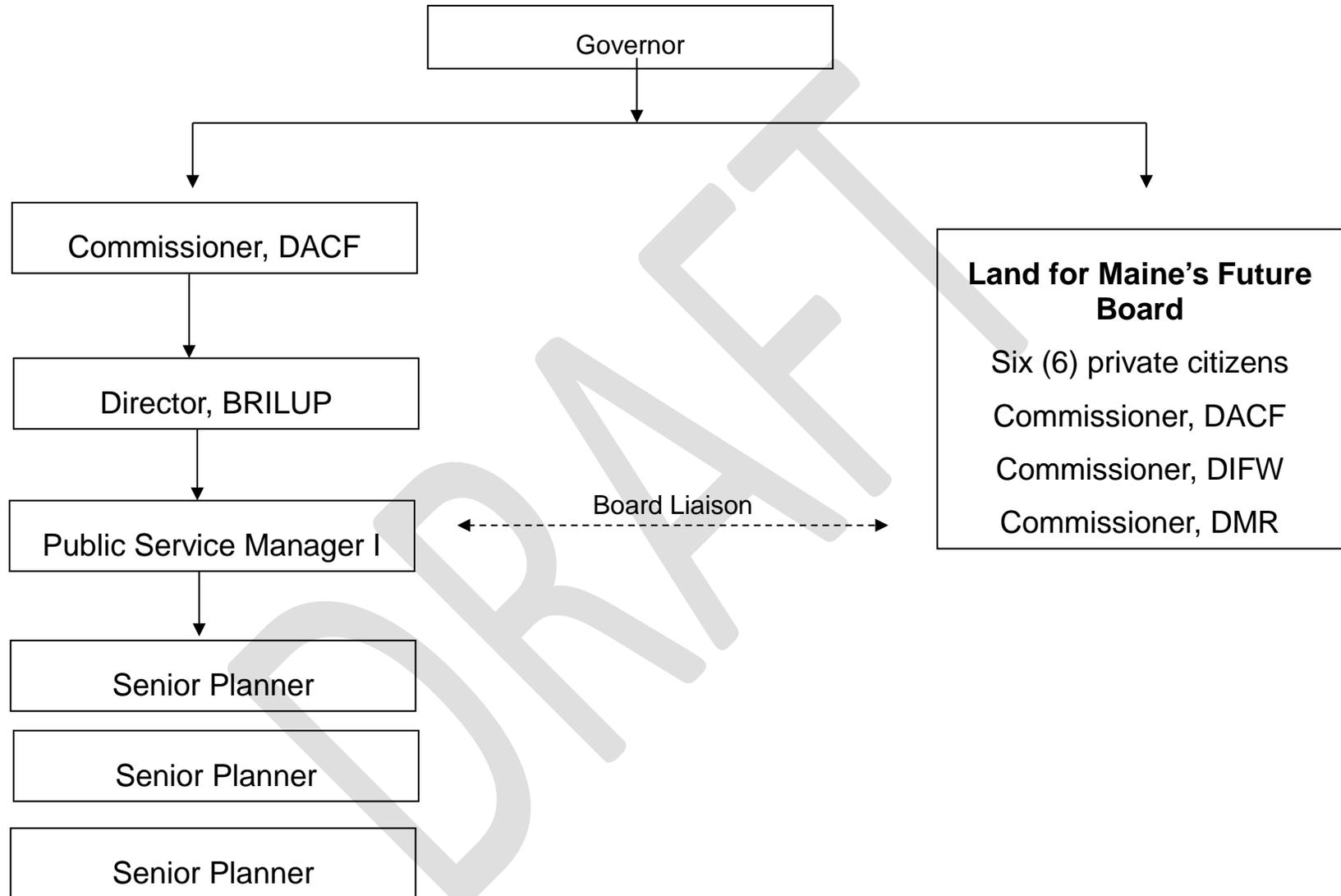


Figure 1-2. LMF Position Count & Position Funding

Director, Land for Maine's Future
PUBLIC Service Manager I
01001AZ16209 - 57.25%
01401A040104 - 42.75%
Permanent Full Time

Senior Planner
01301AZ16209 – 100%
Permanent Full Time

Senior Planner
01001AZ16209 – 100%
Permanent Full Time

Senior Planner
01001AZ16209 – 100%
Permanent Full Time

Selected Historical Account of Position Classification

Maine Department of Agriculture, Conservation, Forestry As of September 1, 2015

<u>Job Class Title</u>	<u>Fund</u>	<u>Org</u>	<u>Hours</u>	<u>Position</u>
Public Service Manager I	10 (57.25%)	01A	80	017200001
	14 (42.75%)	01A		
Senior Planner	13	01A	80	095101092
Senior Planner	10	01A	80	095101016
Senior Planner	10	01A	80	095101139

Maine State Planning Office As of November 1, 2001

Program 0060 - LMF- has only one position

<u>Job Class Title</u>	<u>Fund</u>	<u>Org</u>	<u>Hours</u>	<u>Position</u>
Senior Planner	14	60	80	95101139

Program 0082 – State Planning Office – positions supporting LMF

<u>Job Class Title</u>	<u>Fund</u>	<u>Org</u>	<u>Hours</u>	<u>Position</u>
Policy Development Spec	10	82	80	95100001
Senior Planner	10	82	80	95101016
Secretary	13	82	80	95100031

Maine State Planning Office As of October 1, 2007

Program 0060 - LMF- has only one position

<u>Job Class Title</u>	<u>Fund</u>	<u>Org</u>	<u>Hours</u>	<u>Position</u>
Senior Planner	10	60	80	95101139

Program 0082 – State Planning Office – positions supporting LMF

<u>Job Class Title</u>	<u>Fund</u>	<u>Org</u>	<u>Hours</u>	<u>Position</u>
Policy & Program Coord	10	82	80	95100001
Senior Planner	13	82	80	95101019
Senior Planner	10	82	80	95101016
Secretary	13	82	80	95100031

Statutes, Policies, Data Management, and Reports

Enabling Legislation

The Land for Maine's Future program is governed by its original enabling legislation, as amended, and the various provisions of specific bond language. These provisions can be found in Appendix 1.

A list of the statutory requirements and principal policies and guidelines adopted by the board is summarized below.

Board Policies and Statutory Guidelines

- Willing sellers only. A board policy since 1987. The board requires signed consent from the owner(s) of land being proposed for consideration in advance of any board discussion of a property.¹
- Public Notice of Intent to Purchase. Since 1989, LMF statute has required notice be provided before a vote to acquire property or interest in property.² Notices are placed ten-days in advance 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. Similar notice is also sent to elected officials representing the town in which the proposed project is located.
- Public Participation Encouraged at All Meetings. All board meetings are open, almost always attended by members of the public, and frequently include public input. Public notice is published in advance of all board meetings and communication is made to a list of interested parties.
- Municipal & County Approval. LMF statute requires approval of the elected municipal officials when property representing more than 1% of a municipality's state valuation is considered for acquisition.³ Board policy is to seek municipal input on all acquisitions. A similar provision was added in 1999 that applies to counties and county commissioners if the properties to be acquired are in unorganized townships.⁴
- Purchase Price Determined by Appraised Value. Board policy is to determine land values through appraisals and to base acquisition price on appraised value. Purchase price may be reduced through matching funds and landowner contributions.
- Providing Public Access. Public access is a core purpose of the LMF program. After successfully closing on an acquisition, applicants may request up to an additional five percent (5%) of their LMF allocation to develop public access including trails, boat access, camping, and picnicking facilities. These awards are made subject to the availability of funds.

¹ See also 5 MRS §6206-A, PL 1989 c.485

² 5 MRS § 6206-A, PL 1989 c.603

³ 5 MRS §6208

⁴ 5 MRS §6208-A, PL 1999 c.514

- Non-Qualifying Expenditures. LMF is prohibited by statute from acquiring facilities for organized recreational activities, capital improvements on any publicly owned facilities, except as statute otherwise allows, or land for which the primary use value has been and will be as commercially harvested or harvestable forest land.⁵ This does not prohibit the acquisition of conservation easements on working forest lands which allow for timber production while securing public access and the conservation of other natural resource values.
- Hunting and Fishing. All lands acquired with LMF support since 1999 may not prohibit hunting and fishing, except for working waterfront and farmland protection projects.
- Water Access Lands. Increasing coastal and inland access to water is one of LMF's priorities. In 1993, the Public Access to Maine Waters Fund was established.⁶
- Working Forest Easements. The board has established guidance for the development of conservation easements that incorporate protection of the property's potential for sustainable forestry.
- Addressing Land Management Costs. When matching funds are available from sources other than a state bond, up to 20% of the appraised value of acquired land may be put into the stewardship account of the state agency holding title to the land.⁷ Such a contribution can be used as matching funds in the LMF funding process.
- Farm Business Plans and Capital Improvements. Five percent (5%) of the appraised value of development rights purchased on farmland may be made available directly to the farmer to support the establishment of a business plan and capital improvements to support continued use as a working farm.⁸ Since 2009, these funds can be used on adjoining land/farmlands in the same ownership or under same management.⁹
- Archaeological Sites and Public Water Supply. The LMF Board is authorized to consider conservation projects that include "significant, undeveloped archaeological sites"¹⁰ and "public water supply protection when that purpose is consistent and does not conflict with the natural resource conservation and recreation purposes" of the LMF program.¹¹
- Working Waterfront Access Protection. In 2005, a new pilot program was established through legislation for the protection of lands supporting working commercial waterfronts along Maine's coast. The program is implemented by the Maine Department of Marine Resources with LMF support. The effort was extended with new funding through additional bond packages approved in 2007, 2010, and 2012.¹² In 2011, the Working Waterfront Access Protection Fund was codified as part of the LMF statute.¹³

⁵ 5 MRS §6207(4)

⁶ PL 1993 c.728

⁷ 5 MRS §6209(3)

⁸ 5 MRS §6203(3)(C)

⁹ PL 2009, c.178

¹⁰ 5 MRS §6207 (2)(A), PL 2007, c. 64

¹¹ 5 MRS §6207(D), PL 2007, c. 353

¹² PL 2007 c.39, PL 2009 c.645, and PL 2011 c.696

¹³ PL 2011, c.266, 5 MRS §6203-B

- Deer Wintering. In 2011, the Legislature added Deer Wintering Areas (DWA) as a priority for LMF funds.¹⁴
- Value Added to Public Dollars. There has been an incremental increase in match requirements with each voter approved bond for LMF. With the 2010 and 2012 bond funds, a proposal is expected to have a match greater than or equal to 50% of the total eligible project costs.¹⁵ This means that for every \$1 of LMF funds expended, there must be at least \$1 of match funds.
- Contracts with cooperating entities. With passage of the 1999 bond, the LMF board was authorized to fund land conservation projects in which the interests would be held by “cooperating entities” – typically land trusts or municipalities.¹⁶ To safeguard the state’s investment of public dollars, the board has developed a model project agreement that is executed with the cooperating entity holding the interest. (See Appendix 2)

Comparison of Federal and State Laws

There are no federal laws or regulations that conflict with the state laws governing the Land for Maine’s Future program.

Collection, Management and Use of Personal Information

The Land for Maine’s Future board collects very little personal information and does not collect or store any personal data electronically. A description of the practices for securing personal information collected through the Working Waterfront Access Protection Program application process is described below.

[Add information regarding CE registry]

Working Waterfront Access Protection Program Proposals

Information submitted to LMF under the provisions of the Maine Working Waterfront Access Protection Program may be designated by the applicant as proprietary information and as being only for the confidential use of the department, its agents and employees, other agencies of State Government, as authorized by the Governor, and the Attorney General.¹⁷ The designation must be clearly indicated on each page or other unit of information. LMF retains one hard copy of each working waterfront proposal. The programs practice is to treat all working waterfront proposals as confidential and store each proposal in an envelope that is labeled “CONFIDENTIAL, Title 12, ch. 607 §6173-A”. The working waterfront files are housed in file drawers separate from other LMF projects and the storage drawers are capable of being locked.

¹⁴ 5 MRS §6207 (3), PL 2011, c. 381. See also PL 2011, c.696

¹⁵ PL 2009 c.645, and PL 2011 c.696

¹⁶ PL 1999 c.514

¹⁷ 12 MRS, ch. 607 §6173-A (<http://www.mainelegislature.org/legis/statutes/12/title12sec6173-A.html>)

Reports, Application, and Other Paperwork

[pending]

Reports to the Legislature

By statute, the Board is required to submit to the legislative joint standing committee with jurisdiction, currently the Joint Committee on Agriculture, Conservation, and Forestry, a report on expenditures and revisions to strategy guidelines every odd year on the LMF program.¹⁸

This report is to include the following:

- A description of access to land and interest in land acquired during the report period;
- For acquired land that does not have guaranteed public vehicular, justification must be provided along with a plan for continued efforts to provide such access;
- A summary of the board's experience during the reporting period for project funded with LMF and Public Access to Maine Waters funds and in which lands or interest in land is acquired by a cooperating entity;
- A summary of county-by-county expenditures and acreage conserved through acquisition of fee or less-than-fee interest during the reporting period;
- Cumulative totals by county of acreage conserved through acquisition of fee or less-than-fee interest through action by the board; and
- Maps based on available information and at a statewide level that show federal, state, and other public lands and permanent interests in lands held for conservation purposes.

LMF is part of the Department of Agriculture, Conservation and Forestry's annual report.

LMF is also required to participate in the Government Evaluation Report process.¹⁹

Constituents Served

The Land for Maine's Future program serves a wide range of constituencies. Along with the general public, the program has specific constituencies that include: landowners, including woodland owners, farmers, commercial fishermen, and other private citizens; hunters, anglers, boaters, motorized and non-motorized outdoor recreation enthusiasts, and other recreationists; guides, outfitters, trappers and a wide range of other citizens working in the tourism industry whose livelihood benefits from access to conserved land; local land trusts and nonprofit conservation organizations; city, town, and county governments; and state agencies

A key constituency is the conservation-minded, private landowner. The program's success rests on the willingness of private landowners to sell their properties or their development interests. The LMF board adopted and has consistently maintained a 'willing buyer-willing seller' policy, specifically

¹⁸ 5 MRS §6206(1)(E)

¹⁹ 3 MRS Ch. 35

to protect this essential relationship with the private landowners in the state. The board remains firmly committed to this policy.

The original purpose of the program as set forth by the 1987 \$35 million bond was to purchase lands of state significance for “*recreation, hunting and fishing, conservation, wildlife habitat, vital ecologic functions and scenic beauty that the state, as the public’s trustee, has a responsibility and a duty...to assure that this Maine heritage is passed on to future generations.*”²⁰

Through the efforts of the Land Acquisition Priorities Advisory Committee (LAPAC), the program’s constituents and their role in the LMF program’s efforts have evolved. Prior to passage of the 1999 bond, the program’s direct constituencies were primarily state agencies as state ownership remained the exclusive vehicle for conservation efforts. As statute changes have been made and successive bonds passed, projects to preserve farmland, working waterfronts and water access have necessitated the involvement of various advocacy groups such as commercial fishing and farming constituencies.

Two changes resulting from the LAPAC initiative (to add projects of local and regional significance and to enter into agreements with cooperating entities) redefined the program’s relationship with many of its constituencies, as they moved from being observers and advisors to being full partners. In many cases these key players now execute land protection projects directly and raise substantial sums of matching funds to leverage LMF resources. The state has also benefited by the land management capacity of conservation organizations, land trusts, and municipalities. Generally-speaking, conservation lands held by these entities pose a lesser demand on state agency staff resources.

Given the nature of its mission, the program is likely to have a broad constituency and the relationships with some of these constituencies can be expected to change over time as conservation opportunities evolve.

Provisions Needing Review

[Pending]

²⁰ 5 MRS §6200

Appendix 1: Enabling Statutes and Other legal Provisions

Land for Maine's Future Enabling Statute

Maine Revised Statutes

Title 5: ADMINISTRATIVE PROCEDURES AND SERVICES

Chapter 353: LAND FOR MAINE'S FUTURE

§6200. FINDINGS

The Legislature finds that Maine is blessed with an abundance of natural resources unique to the northeastern United States; that these natural resources provide Maine residents and visitors to the State with an unparalleled diversity of outdoor recreation opportunities during all seasons of the year and a quality of life unmatched in this nation; that the continued availability of public access to these recreation opportunities and the protection of the scenic and natural environment are essential for preserving the State's high quality of life; that public acquisition programs have not kept pace with the State's expanding population and changing land use patterns so that Maine ranks low among the states in publicly owned land as a percentage of total state area; that rising land values are putting the State's real estate in shoreland and resort areas out of reach to most Maine citizens and that sensitive lands and resources of statewide significance are currently not well protected and are threatened by the rapid pace of development; and that public interest in the future quality and availability for all Maine people of lands for recreation and conservation is best served by significant additions of lands to the public domain.

The Legislature further finds that Maine's private, nonprofit organizations, local conservation commissions, local governments and federal agencies have made significant contributions to the protection of the State's natural areas and that these agencies should be encouraged to further expand and coordinate their efforts by working with state agencies as "cooperating entities" in order to help acquire, pay for and manage new state acquisitions of high priority natural lands.

The Legislature declares that the future social and economic well-being of the citizens of this State depends upon maintaining the quality and availability of natural areas for recreation, hunting and fishing, conservation, wildlife habitat, vital ecologic functions and scenic beauty and that the State, as the public's trustee, has a responsibility and a duty to pursue an aggressive and coordinated policy to assure that this Maine heritage is passed on to future generations.

§6201. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Appraised value. "Appraised value" means the fair market value of property without the consideration of the effect, if any, of dedication or other preservation-related restrictions.

1-A. Commercial fisheries business. "Commercial fisheries business" means an enterprise directly or indirectly concerned with the commercial harvest of wild or aquacultured marine organisms, whose primary source of income is derived from these activities. "Commercial fisheries business" includes, but is not limited to:

A. Licensed commercial fishermen, aquaculturists and fishermen's cooperatives;

B. Persons providing direct services to commercial fishermen, aquaculturists or fishermen's cooperatives, as long as provision of these direct services requires the use of working waterfront property; and

C. Municipal and private piers and wharves operated to provide waterfront access to commercial fishermen, aquaculturists or fishermen's cooperatives.

2. Cooperating entities. "Cooperating entities" means those private nonprofit organizations, municipal conservation commissions, local governments, federal agencies or other bodies designated by the Land for Maine's Future Board pursuant to section 6203, as able to assist the State in the acquisition or management of conservation lands.

3. Matching funds. "Matching funds" means any combination of public and private funds used in conjunction with the Land for Maine's Future Fund or the Public Access to Maine Waters Fund for the purpose of this chapter, including, but not limited to: private contributions of cash or securities; money from municipal or other public agencies; money from a federal matching program, subject to the limitations of applicable federal and state laws, in an amount authorized by the federal program; contributions of real property, or interest in real property, that serves the acquisition needs of the State as determined by the Land for Maine's Future Board; in-kind contributions; or any combination of those funds. Contributions of land or interest in land must be valued, for purposes of this section, in the amount of their appraised value.

4. Stewardship account. "Stewardship account" means an account held separate and apart from all other money, funds and accounts of a state agency for the purposes of management of land owned in fee or less-than-fee simple meeting the criteria established in section 6207.

5. Working waterfront or working waterfront property. "Working waterfront" or "working waterfront property" means land, legally filled lands and piers and wharves and other improvements to land adjacent to the navigable coastal waters of the State and used by a commercial fisheries business.

§6202. LAND FOR MAINE'S FUTURE BOARD

The Land for Maine's Future Board, as established in chapter 379, shall be an Executive Department Board and shall be referred to in this chapter as the "board."

§6203. LAND FOR MAINE'S FUTURE FUND

1. Fund established. There is established the Land for Maine's Future Fund that is administered by the board. The Land for Maine's Future Fund consists of the proceeds from the sale of any bonds authorized for the purposes set forth in subsection 3 and any funds received as contributions from private and public sources for those purposes. The Land for Maine's Future Fund must be held separate and apart from all other money, funds and accounts. Eligible investment earnings credited to the assets of the Land for Maine's Future Fund become part of the assets of that fund. Any balance remaining in the Land for Maine's Future Fund at the end of any fiscal year must be carried forward for the next fiscal year.

2. Fund available. The Land for Maine's Future Fund is available to state agencies and designated cooperating entities upon authorization of the board for the purposes identified in subsection 3.

3. Fund proceeds. The proceeds of the Land for Maine's Future Fund may be applied and expended to:

A. Acquire property or an interest in property that is determined by the board to be of state significance under the guidelines of this chapter; [1999, c. 769, §1 (AMD).]

B. When interest in land is acquired with proceeds from the Land for Maine's Future Fund, fund minor capital improvements on such lands and on adjoining lands in the same ownership or under the same management to improve accessibility, as long as these improvements do not exceed 5% of the appraised value of the acquired property; and [2009, c. 178, §1 (AMD).]

C. When interest in farmland is acquired with proceeds from the Land for Maine's Future Fund, fund the development of a business plan and capital improvements to provide for the land's continuing use as a working farm, as long as these improvements do not exceed 5% of the appraised value of the acquired property. Capital improvements under this paragraph may also be made on adjoining farmland in the same ownership or under the same management.

§6203-A. PUBLIC ACCESS TO MAINE WATERS FUND

1. Fund established. There is established the Public Access to Maine Waters Fund that is administered by the board. The Public Access to Maine Waters Fund consists of the proceeds from the sale of bonds authorized for the purposes set forth in subsection 3 and funds received as contributions from private and public sources for those purposes. The Public Access to Maine Waters Fund must be held separate and apart from all other money, funds and accounts. Eligible investment earnings credited to the assets of the Public Access to Maine Waters Fund become part of the assets of that fund. Any balance remaining in the Public Access to Maine Waters Fund at the end of a fiscal year must be carried forward for the next fiscal year.

2. Fund available. The Public Access to Maine Waters Fund is available to state agencies and designated cooperating entities upon authorization of the board for the purposes identified in subsection 3.

3. Fund proceeds. The proceeds of the Public Access to Maine Waters Fund may be applied and expended to:

A. Acquire property or interests in property abutting fresh or coastal waters when public access to those waters does not exist or when the board determines that existing points of public access are not sufficient; and

B. Provide minor capital improvements on lands acquired by proceeds from the Public Access to Maine Waters Fund to provide public access or improve accessibility, as long as these improvements do not exceed 5% of the appraised value of the acquired property.

§6203-B. MAINE WORKING WATERFRONT ACCESS PROTECTION FUND

1. Fund established. The Maine Working Waterfront Access Protection Fund, referred to in this section as "the fund," is established and is administered by the board in cooperation with the Commissioner of Marine Resources under the provisions of this chapter and Title 12, section 6031-A. The fund consists of the proceeds from the sale of bonds authorized for the purposes set forth in subsection 3 and funds received as contributions from private and public sources for those purposes. The fund must be held separate and apart from all other money, funds and accounts. Eligible investment earnings credited to the assets of the fund become part of the assets of the fund. Any balance remaining in the fund at the end of a fiscal year must be carried forward for the next fiscal year.

2. Grants. The board may make grants to state agencies and designated cooperating entities for the purposes identified in subsection 3. Grants are made according to rules adopted by the board. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

3. Fund proceeds. The proceeds of the fund may be applied and expended to acquire property or interests in property that are designed to protect access to working waterfront property consistent with the provisions of Title 12, section 6042. The board shall include as a condition of an acquisition or grant made under this section the requirement that the protected property may not be used, altered or developed in a manner that precludes its use by a commercial fisheries business consistent with the provisions of Title 33, chapter 6-A. Consistent with the provisions of Title 12, section 6042, working waterfront covenants obtained through expenditures of these funds are held by the Commissioner of Marine Resources.

4. Matching funds. For each grant made under this section, the board shall require the grant recipient to provide matching funds at least equal to the amount of the grant.

§6204. BOARD COMPOSITION

1. Composition. The board consists of 9 members, 6 who are private citizens and 3 who are permanent members. The permanent members are the Commissioner of Inland Fisheries and

Wildlife; the Commissioner of Marine Resources; and the Commissioner of Agriculture, Conservation and Forestry.

2. Appointments. The 6 private citizens are appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over matters pertaining to state parks and public lands and to confirmation by the Legislature.

3. Qualifications. The 6 private citizens must be selected for their knowledge of the State's natural resources and landscape and their demonstrated commitment to land conservation. Appointments must provide broad geographic representation.

4. Terms; compensation. The appointed private citizen members are appointed to staggered 4-year terms. The initial appointments are: Two members for 2-year terms; 2 members for 3-year terms; and 2 members for 4-year terms. Appointed private citizen members may not serve more than 2 consecutive 4-year terms. The appointed members receive the legislative per diem pursuant to chapter 379.

5. Chair. The Governor shall appoint the chair of the board.

6. Assistance. The Department of Inland Fisheries and Wildlife; the Department of Transportation; the Department of Agriculture, Conservation and Forestry; and all other state agencies shall provide staff support and assistance considered necessary by the board to fulfill the objectives of this chapter. If agency assistance is not available, consultants may be hired from the proceeds of either the Land for Maine's Future Fund or the Public Access to Maine Waters Fund to assist the board in carrying out its responsibilities.

§6205. BOARD MEETINGS; RULES AND ADMINISTRATIVE PROCEEDINGS

1. Meetings. The board shall meet at least 4 times each year. The chair shall call the meetings of the board.

2. Rules. The board, acting in accordance with section 8052, may adopt rules it considers necessary for the conduct of its business.

3. Compensation. Appointed members are entitled to receive compensation equal to legislative per diem and travel expenses as allowed under section 12004-G, subsection 29 while engaged in board activities.

4. Quorum. A quorum of the board for the transaction of business is 5 members.

5. Personal bias. If a charge of bias or personal financial interest, direct or indirect, is filed against a member requesting that member to withdraw from a proceeding of the board, that member shall determine whether or not to withdraw and shall make that determination part of the record of that proceeding.

§6206. BOARD RESPONSIBILITIES

1. Responsibilities. The board shall:

A. Complete an assessment of the State's public land acquisition needs and develop a strategy and guidelines, based on that assessment, for use in allocating the proceeds of the Land for Maine's Future Fund and the Public Access to Maine Waters Fund. Both the assessment and the development of a strategy and guidelines must be conducted with opportunities for participation by interested state agencies and the public;

B. [Repealed 1993, c. 728, §8]

C. Receive and review funding requests from state agencies and cooperating entities for acquisition projects meeting state guidelines;

D. In accordance with the strategy and guidelines developed under paragraph A, authorize distribution of proceeds from the Land for Maine's Future Fund and the Public Access to Maine Waters Fund for acquisitions of property or interests in property; and

E. On January 1st of every odd-numbered year, report to the joint standing committee of the Legislature having jurisdiction over matters pertaining to state parks and public lands on expenditures from the Land for Maine's Future Fund and the Public Access to Maine Waters Fund and revisions to the strategies and guidelines. This report must include a description of access to land and interest in land acquired during the report period. If an acquisition has been made that does not include guaranteed public vehicular access to the land acquired, the board must provide justification for that acquisition and a plan for continuing efforts to acquire guaranteed public access to the land. This report must include a summary of the board's experience during the reporting period with projects funded pursuant to section 6203 or 6203-A and in which the land or interest in land is acquired by a cooperating entity. This report must also include on a county-by-county basis a summary of the expenditures made by the board and acreage conserved through acquisition of fee or less-than-fee interest by the board during the report period. Each report must include cumulative totals by county of acreage conserved through acquisition of fee or less-than-fee interest through action by the board.

The report must include maps based on available information and at a statewide level that show federal, state and other public lands and permanent interests in lands held for conservation purposes. The maps must also provide a representation of the amount of land affected by conservation easements under Title 33, chapter 7, subchapter 8-A. Other state agencies holding conservation lands and interests in lands held for conservation purposes shall assist in the preparation of the maps.

§6206-A. NOMINATIONS

Prior to taking an action to designate land for negotiation for acquisition, the board shall send by certified mail or otherwise deliver a notice of this intention to the owner or owners of land within the area proposed by the board for acquisition, as the identity and address of such owner or owners

is shown on the tax maps or other tax records of the municipality in which the land is located. If the land is located within the unorganized territory, notice must be sent to the owner or owners as shown on the tax maps or other tax records of the State Tax Assessor. After the completion of negotiations, the board shall publish a notice of its intent to designate land for acquisition in a newspaper or newspapers of general circulation that identifies the land proposed by the board for acquisition and that notifies the residents of the area that the board will accept public comments on the proposed acquisition.

Any owner of land that has been nominated for acquisition and is subject to the notice requirements of this section may submit a properly sworn affidavit to the board indicating the owner's unwillingness to sell. The affidavit is notice to the board that continued evaluation of that land is inappropriate and, unless the board intends to acquire an interest in the land through the use of eminent domain pursuant to section 6207-A, the board may not consider that land for acquisition.

§6207. ACQUISITION CRITERIA

1. Distribution of funds. The board shall authorize the distribution of funds from the Land for Maine's Future Fund and the Public Access to Maine Waters Fund to state agencies and cooperating entities for the acquisition of natural lands that meet the criteria set forth in this chapter.

2. Determination of state significance. In determining whether a proposed acquisition must be funded, in full or in part, by the Land for Maine's Future Fund or the Public Access to Maine Waters Fund, the board shall consider whether the site is of state significance and:

A. Contains recreation lands, prime physical features of the Maine landscape, areas of special scenic beauty, farmland or open space, undeveloped shorelines, significant undeveloped archeological sites, wetlands, fragile mountain areas or lands with other conservation, wilderness or recreation values;

B. Is habitat for plant or animal species or natural communities considered rare, threatened or endangered in the State;

C. Provides nonmotorized or motorized public access to recreation opportunities or those natural resources identified in this section; or

D. Provides public water supply protection when that purpose is consistent and does not conflict with the natural resource conservation and recreation purposes of this chapter.

3. Priorities. Whenever possible, the Land for Maine's Future Fund and the Public Access to Maine Waters Fund must be used for land acquisition projects when matching funds are available from cooperating entities, as long as the proposed acquisition meets all other criteria set forth in this chapter. For acquisitions funded by the Land for Maine's Future Fund, the board shall give priority to projects that conserve lands with multiple outstanding resource or recreation values or a single exceptional value, conserve and protect deer wintering areas, provide geographic representation and build upon or connect existing holdings.

When acquiring land or interest in land, the board shall examine public vehicular access rights to the land and, whenever possible and appropriate, acquire guaranteed public vehicular access as part of the acquisition.

4. Nonqualifying expenditures. The board may not fund:

A. Facilities for organized recreational activities, including, but not limited to, ballparks, tennis courts or playgrounds;

B. Except as provided in section 6203, subsection 3, paragraph B and section 6203-A, subsection 3, paragraph B, capital improvements on any publicly owned facilities; and

C. The acquisition of land of which the primary use value has been and will be as commercially harvested or harvestable forest land.

5. Estimation of monitoring and management costs. Prior to final approval of a project under this chapter, a person submitting a proposal to acquire property or an interest in property with funding from the Land for Maine's Future Fund or the Public Access to Maine Waters Fund shall provide:

A. A description of the management envisioned for the property for the first 10 years following acquisition. When the application proposes acquiring an interest in property, the application 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;

B. Preliminary estimates of the costs to the State or a cooperating entity of managing the land for the uses proposed in the application; and

C. Preliminary estimates of the costs associated with monitoring compliance with an easement when an interest in land is acquired.

§6207-A. USE OF EMINENT DOMAIN

The board may expend funds to acquire an interest in land obtained by the use of eminent domain only if the acquisition has been approved by the Legislature or is with the consent of the owner or owners of the land, as the identity and address of the owner or owners is shown on the tax maps or other tax records of the municipality in which the land is located. If the land is located within the unorganized territory, for purposes of this section the identity of the owner or owners must be as shown on the tax maps or other tax records of the State Tax Assessor.

§6208. MUNICIPAL APPROVAL

1. Approval. Approval by the elected municipal officials is required when more than 1% of a municipality's state valuation is considered for acquisition under a bond issue.

2. Transactions. Any acquisition by eminent domain funded by the board, when the land exceeds either 50 acres or \$100,000 in assessed value, is subject to the approval of the municipality in which the land is located. That approval may be obtained either from the elected municipal officials or, if those officials do not approve, by vote of the town meeting or by referendum of the electorate. If the land involved is located within the unorganized territory, this requirement does not apply.

§6208-A. UNORGANIZED TERRITORY; COUNTY APPROVAL

1. Approval. Approval by the county commissioners is required if land proposed to be acquired under a bond issue within the unorganized territory in a county constitutes more than 1% of the state valuation within the county.

2. Transactions. Any acquisition of land within an unorganized territory by eminent domain funded by the board, when the land exceeds either 50 acres or \$100,000 in assessed value, must be approved by the county in which the land is located. That approval may be obtained either from the county commissioners or, if they do not approve, by referendum of the legal voters within the county.

§6209. OWNERSHIP; TITLE; MANAGEMENT

1. Uses of funds. The board may use the Land for Maine's Future Fund and the Public Access to Maine Waters Fund to acquire real property in both fee and less-than-fee simple interest, including, but not limited to, conservation easements, access easements, scenic easements, other permanent interests in land and long-term leases of at least 99 years, provided that those acquisitions are primarily natural lands meeting the criteria set forth in this chapter.

2. Title. Title to all lands acquired pursuant to this chapter must be vested solely in the State. Management responsibilities for the acquired lands may be contracted by the land-owning state agency to cooperating entities, subject to appropriate lease arrangements, upon the recommendation of the agency's commissioner and approval of the board.

3. Matching funds. When matching funds for a project include cash not derived from a bond request, an allocation of up to 20% of the appraised value of the acquired land or the amount of cash, whichever is less, may be put into the stewardship account of the state agency holding title to the land.

4. Payments. Payments from the fund may be made to cooperating entities for qualifying lands acquired on behalf of the State, provided that a state agency has issued to the cooperating entity a letter of intent requesting assistance in the acquisition. Upon submission to the state agency of a cooperating entity's direct expenses for acquisition and related costs of an authorized acquisition, the board shall authorize payment of those expenses, provided that the total of all expenses does not exceed the appraised value of the acquired property. Expenses must be paid at intervals during the acquisition process, as determined by the board.

5. Land evaluated. All lands acquired with money from the Land for Maine's Future Fund or the Public Access to Maine Waters Fund must be evaluated for rare, threatened or endangered species of plants and animals, exemplary natural communities, features of historic significance and other high priority natural features and ecologic functions as determined by the board, with reference to the best inventory data available to the State. Subsequent management by state agencies holding properties found to have such important features and functions must reflect the objective of maintaining and protecting those features and functions.

6. Legislative approval. Except as provided in subsection 7, land acquired under this chapter may not be sold or used for purposes other than those stated in this chapter, unless approved by a 2/3 majority of the Legislature.

7. Conveyance of an access easement across a rail trail. Notwithstanding any other provision of law, the Director of the Bureau of Parks and Lands within the Department of Agriculture, Conservation and Forestry, with the approval of the Governor and the Commissioner of Agriculture, Conservation and Forestry, may sell or otherwise convey in accordance with Title 12, section 1814-A access rights by easement across a rail trail acquired under this chapter.

For the purposes of this subsection, "rail trail" means a former railroad right-of-way in which the Department of Agriculture, Conservation and Forestry holds an ownership interest and that is:

A. No longer used for rail service; and

B. Managed by the Department of Agriculture, Conservation and Forestry for use as a recreational trail.

§6210. DATA SHARING

If the board transfers in writing to any local or federal agency any written information acquired by the board under this chapter concerning any land, the board shall, upon transfer, notify the landowner of the transfer by certified mail.

§6211. LAND FOR MAINE'S FUTURE BOARD-SPONSORED CREDIT CARD

1. Land for Maine's Future Board-sponsored credit card. The Land for Maine's Future Board may enter into an agreement with a financial institution, as defined in Title 9-B, section 131, subsection 17, a credit union, as defined in Title 9-B, section 131, subsection 12, or other credit card issuer to issue a credit card for the benefit of the Land for Maine's Future Board.

2. Agreement. If the Land for Maine's Future Board enters into an agreement with a financial institution, credit union or other credit card issuer in accordance with subsection 1, the Land for Maine's Future Board shall negotiate the most favorable agreement for the Land for Maine's Future Board, considering such factors as:

A. The rate for the Land for Maine's Future Board's fee by a credit card issuer;

B. The ability of the financial institution or other credit card issuer to market the card successfully;
and

C. Customer service offered by the financial institution or other credit card issuer.

3. Distribution of proceeds. Funds received by the Land for Maine's Future Board under the agreement with the financial institution, credit union or other credit card issuer must be deposited in a separate, interest-bearing account within the Land for Maine's Future Fund. The account must be held separate and apart from all other money, funds and accounts. Eligible investment earnings credited to the assets of the account become part of the assets of the account. Any balance remaining in the account at the end of any fiscal year must be carried forward to the next fiscal year. Notwithstanding section 6203, subsection 3, the board may expend funds deposited in the account pursuant to this section to cover administrative costs and for staff support and consulting services, as determined necessary by the board to carry out its duties under this chapter.

All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the Second Regular Session of the 126th Maine Legislature and is current through August 1, 2014. The text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.

2010 Bond Proposal

124th Maine Legislature

Chapter 645

H.P. 1167 – L.D. 1639

An Act To Authorize Bond Issues for Ratification by the Voters for the June 2010 Election and November 2010 Election

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,

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, this legislation directs the transfer of funds prior to June 30, 2010; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

PART J

Sec. J-1. PL 2009, c. 414, Pt. E, §1 is amended to read:

Sec. E-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 ~~\$10,000,000~~\$9,750,000 for the purposes described in section 6 of this Part. 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. At the discretion of the Treasurer of State, with the approval of the Governor, any issuance of bonds may contain a call feature.

Sec. J-2. PL 2009, c. 414, Pt. E, §5, sub-§5 is amended to read:

5. Of the bond proceeds allocated to the Land for Maine's Future Board, ~~\$2,000,000~~\$1,750,000 must be made available to protect working waterfront properties in accordance with Public Law 2005, chapter 462, Part B, section 6.

Sec. J-3. PL 2009, c. 414, Pt. E, §6 is amended to read:

Sec. E-6. Allocations from General Fund bond issue. The proceeds of the sale of the bonds authorized under this Part must be expended as designated in the following schedule.

EXECUTIVE DEPARTMENT

State Planning Office

Land for Maine's Future Board

Provides funds in order to leverage \$6,500,000 in other funds to be used for the acquisition of land and interest in land for conservation; water access, wildlife and fish habitat; outdoor recreation, including hunting and fishing; and farmland preservation. \$6,500,000

Provides funds to be used for working farmland preservation in order to leverage \$1,000,000 in other funds. \$1,000,000

Provides funds to be used for working waterfront preservation in order to leverage ~~\$2,000,000~~ \$1,750,000 in other funds. ~~\$2,000,000~~ \$1,750,000

DEPARTMENT OF CONSERVATION

Bureau of Parks and Lands

Provides funds to preserve state parks and \$500,000

properties managed by the Department of Conservation.

Sec. J-4. PL 2009, c. 414, Pt. E, §10 is amended to read:

Sec. E-10. Referendum for ratification; submission at election; form of question; effective date. This Part must be submitted to the legal voters of the State at a statewide election held in November 2010 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 Part by voting on the following question:

"Do you favor a ~~\$10,000,000~~\$9,750,000 bond issue to invest in land conservation and working waterfront preservation and to preserve state parks to be matched by ~~\$9,500,000~~\$9,250,000 in federal and other funds?"

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 Part, the Governor shall proclaim the result without delay and this Part 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 Part necessary to carry out the purposes of this referendum.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective July 12, 2010

2012 Bond Proposal

125th Maine Legislature

Chapter 696

S.P. 255 – L.D. 852

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
-------	-------------

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 deauthorized 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.

DRAFT

Appendix 2: Model Project Agreements

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:

DRAFT

**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
28 State House Station
Augusta, Maine 04333-0028

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.

DRAFT

**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: *

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".

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. 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:

**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 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
28 State House Station
Augusta, Maine 04333-0028

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.

DRAFT