

# Maine Working Waterfront Access Protection Program

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



Last Revised: January 2022

Land for Maine's Future  
Maine Department of Agriculture, Conservation and Forestry  
22 State House Station, Augusta, Maine 04333-0028  
207-287-7576

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**Letter of Intent for DMR Sponsorship due on February 28<sup>th</sup>, 2022  
Full Proposals due on June 3<sup>rd</sup>, 2022.**

**Submit 1 electronic copy and 10 hard copies** of the proposal applications and all supporting materials to:

Working Waterfront Access Protection Program

Melissa Britsch  
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Augusta, ME 04333  
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# Overview

## History and Need

Passage of the Land for Maine's Future (LMF) Bond in November of 2005 established a unique working waterfront protection program for projects that protect strategically significant working waterfront properties whose continued availability to commercial fisheries businesses is essential to the long-term future of this economic sector. The effort was extended with new funding through a second bond package approved in 2007, a third in 2010, and a fourth in 2012. This program is administered by the Maine Department of Marine Resources (DMR), Maine Coastal Program (MCP) with the support of the Land for Maine's Future (LMF) Program. The Maine Legislature and voters recognize the need to take action to protect and secure commercial fishing access at a time when increasing demands for coastal waterfront lands and rising land values and property taxes are making it difficult for commercial fishing businesses to retain working access to the water. There is often a significant difference between the market value of a waterfront property and a reasonable business value of the property for commercial fishing purposes. The WWAPP was created to assist commercial fishing businesses and others to fill this financial gap when ownership is changing, business owners need to secure their working access, or properties are threatened with conversion out of commercial fisheries uses.

## Purpose

The Maine Working Waterfront Access Protection Program is aimed at protecting those coastal waterfront lands that have the facilities, capacity, and services needed to support commercial fisheries businesses and the activities essential to the long-term future of this economic sector. Commercial fisheries businesses include commercial fishermen, aquaculturists, individuals and businesses providing services to commercial fishermen and aquaculturists, fishermen's cooperatives and municipal and private piers and wharves operated to provide waterfront access to commercial fishermen and aquaculturists.

## Who Can Apply?

Project proposals can come from private businesses engaged in, and/or directly supporting, commercial fishing activities, and from cooperatives, municipalities, non-profits or other qualified parties for projects that will provide permanent access use by commercial fisheries businesses. The applicant must be the owner of the working waterfront property or have an interest in its purchase and seek to place a restrictive working waterfront covenant on its use. Once proposals have been submitted, the Department of Marine Resources has the responsibility for bringing working waterfront projects to the Land for Maine's Future Board for funding approval.

## Appropriate Project Types

Funding Assistance may be available for projects that include land used for walk-in and small boat access for worming, clamming and similar harvesting activities, for property dedicated entirely to aquaculture and commercial fisheries use, or for mixed use properties where the portion used to support commercial fishing business can be clearly delineated and its use

secured. There is a strong preference for projects that protect and secure the use of existing, established fishing facilities and access sites over projects that involve development of new access sites and facilities.

To be eligible to qualify, projects require permanent assurance that the land and improvements may not be used, altered or developed in a manner that precludes its use by commercial fisheries businesses. This is done through the conveyance of a permanent Working Waterfront Covenant from the applicant to the State. Funds can also be used to secure permanent protection for existing and continuing ownership through the same mechanism. In these agreements the State of Maine will receive a right of first refusal on the property in order to assure affordability to fishing businesses regardless of future ownership.

### **State Agency Involvement**

The Department of Marine Resources (DMR), Maine Coastal Program (MCP) administers the program in conjunction with the Land for Maine's Future Board (LMFB) of the Department of Agriculture, Conservation and Forestry. In an effort to ensure maximum potential of available dollars, MCP will remain the primary contact at DMR for questions and guidance related to WWAPP proposals. MCP's staff is available to assist and advise project applicants with program details and, to a certain degree, the application process. Project applicants are strongly encouraged to work with the DMR/MCP to assure that proposals are complete and meet minimum program requirements. The DMR/MCP is responsible for running the program, the funding decisions are made by the LMFB.

### **Proposal Process**

Upon announcement of grant funding availability, all potential applicants **must** submit a letter of intent and receive notification of eligibility from DMR prior to submission of a full project proposal. Details on the content of the letter of intent are provided later in this document. Full project proposals will be developed in consultation with MCP staff. MCP staff will be available to assist and advise project applicants with the application and review process including an assessment of whether the proposal meets the basic program criteria. This will assure the development of sound projects and comprehensive applications for evaluation by a Review Panel established by the Commissioner of the Department of Marine Resources and composed of individuals with knowledge of the fishing industry and Maine's coastal economy. The Review Panel will evaluate and score project proposals and make recommendations, based on the program requirements and selection criteria presented below, to the Commissioner of Marine Resources. The Commissioner will in turn evaluate and recommend suitable projects to the LMF Board for funding allocations and financial awards.<sup>1</sup> Upon notification of funding support from the LMF Board, project applicants will work with MCP and LMF staff to complete the process.

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<sup>1</sup> Applicants should note that awards under this program may be taxable under state and federal law in certain situations. Applicants are encouraged to seek qualified counsel to better understand the legal and tax implications of participation in the Working Waterfront Access Protection Program

# Scoring System for Evaluating Working Waterfront Proposals

Each working waterfront project will be evaluated and scored on the basis of program requirements and selection criteria established in the enabling legislation and refined for the program. For a detailed explanation of the scoring criteria see Appendix B.

The criteria and the maximum points that can be awarded are:

## **1. (20 pts) Economic Significance of the Property**

Explanation: This criterion considers the economic importance of the property to the commercial fisheries industry in the immediate vicinity and as part of the State economy. Factors such as the numbers and types of fishermen using the property, the value of landings, the amount of use the property receives over time, and the role of the property to providing commercial fishing access in the vicinity and to the industry as a whole. Significance is determined by serving many and diverse fisheries, providing essential access in the area (the last or one of the remaining few working piers in the area), the role the facility plays in the local economy such as purchasing goods and services and providing employment, and its importance to the fisheries being served and contributions to the state economy as a whole.

## **2. (15 pts) Alternative Properties in the Vicinity**

Explanation: This criterion considers how the project fits into the existing commercial fishing infrastructure and with other working waterfront properties in the vicinity. How does this project help meet the need for commercial fishing access in the area? For example, does the proposed property provide critical capacity, complement and augment existing working access and contribute to a critical mass of waterfront facilities and services? How will the project secure critical capacity needs and not compete with other established facilities and businesses? Why is this project crucial? How does it help support or fill access needs? Are any of the similar properties in the vicinity publicly owned or otherwise secured? Are any alternative properties available or being considered? "Vicinity" in this case means the area surrounding the proposed project, whether a harbor or port or stretch of waterfront; "alternative properties" are any sites or facilities that could reasonably serve the affected fisheries businesses.

## **3. (10 pts) Degree of Community Support**

Explanation: This criterion considers the degree of community support for the proposed project that is demonstrated by letters of support, financial contributions, and supporting business, and/or town actions. Community support comes in a range of ways such as; the existence of a comprehensive plan that recognizes the importance of the fishing industry to the community, the adoption of land use ordinances designed to protect working waterfront areas, property tax incentives to help fishing business retain ownership and use of lands and

facilities, business partnerships, financial contributions, and community support in the form of letters and endorsements of the project.

#### **4. (20 pts) Level of Threat of Conversion**

Explanation: The threat of conversion to uses incompatible with commercial fisheries businesses can be reflected in the patterns and trends of waterfront development within the area. Population trends, increasing property values, the loss of similar fishing properties to other uses, and an active real estate market are measures of threat. Property that can be converted and/or redeveloped under existing land use regulations is an indication of high threat level. Properties used with informal access arrangements may also be highly threatened by unforeseen changes in ownership.

#### **5. (20 pts) Utility of the Property for Commercial Fisheries Business**

Explanation: The utility of the proposed protected property for commercial fisheries business uses in terms of its natural characteristics and developed infrastructure is an important factor in evaluating the significance of a project. Properties in good repair or put into good repair, with convenient access, room to operate from land and water, well-maintained infrastructure, existing or planned investment in energy efficiency, and existing or planned resilience in anticipation of sea level rise will demonstrate high utility.

#### **6. (15 pts) Capacity to Create New Shore-side Jobs**

Explanation: The capacity to create new shore-side jobs is a criterion used to evaluate the potential for new job creation directly related to the waterfront facility/property. Along with an applicant's planned infrastructure improvements, significance is gained by providing clear plans for new hires in the seafood industry anticipated from an award from the program. Recent job losses in the surrounding community (either in the commercial fishing industry or other industries) should be noted. Significance is gained for job creation in communities, towns or counties with high unemployment rates. Factors such as the numbers and types of jobs created, anticipated starting wages, full-time or part-time status, employee benefits including but not limited to health/dental/life/disability insurances and a pension plan should be explained. If there are job-specific training resources for workers, anticipated opportunities for career advancement, or higher education and training, these should be explained.

Total Points 100

## Additional Considerations for Evaluating Proposals

In addition to applying the identified selection criteria, the Review Panel and program staff have established the following considerations that are used to evaluate the significance and impacts of projects. These secondary considerations are:

- the proposed use of award monies to enhance the long-term viability of the business,
- the geographic distribution of projects to assure coast-wide benefits,
- the variety of projects proposed in order to reflect an array of project types,

- the strategic importance of the property to a specific commercial fishery,
- the viability of the proposal and the applicant’s capacity to carry out the project,
- the demonstration of a strong and long-term commitment to the fishing industry, and
- the level of effort or leverage with matching funds.
- the degree of contamination of the property

## Threshold Requirements for Working Waterfront Projects

The Land for Maine’s Future Board follows established policies and guidelines when it makes decisions on which projects to fund. The following threshold requirements are established for the Working Waterfront Access Protection Program. Threshold requirements refer to the expectation that all proposals address and meet the following minimum requirements. In rare cases, a proposal that does not meet these requirements can be considered. Potential applicants should work with MCP Staff to ensure they understand and meet all requirements or that they are appropriate for consideration if they don’t.

**Funds:** Applicants are eligible to apply for up to the full value of the Working Waterfront Covenant as long as that amount is no greater than 50% of the Fair Market Value (FMV) of the property. In the case of a covenant value below 25% of the FMV, the state will entertain award requests of up to 25% of the FMV of the property. Requests such as these are judged on a case by case basis depending upon the scoring results of the application and the availability of funds.

**Match:** Each award requires that the recipient provide matching funds at least equal to the amount of their request, a minimum of a 1:1 ratio. Some project expenses can be included as match such as the cost of appraisal, attorney fees, consultant fees for a Phase I Environmental Site Assessment (ESA), plus bargain sale values and cash contributed to the purchase of the property. In the case of a sale of development rights (covenant) on a property, the remaining value of the property after the covenant is applied can be counted as match. No more than 30% of the required minimum match may be in value of services and the remaining 70% of match must be in the form of cash, land or other tangible assets.

**Permanency:** The enabling legislative language requires that the land be permanently protected so that regardless of future ownership the property may not be used, altered or developed in a manner that precludes its use by commercial fisheries businesses. This protection requirement will take the form of a deed covenant held by the state. As an additional condition, the state must receive a permanent right of first refusal on any property allowing it to intervene if a proposed sale of the property threatens to undermine the covenant or to make the property unaffordable to other commercial fisheries businesses.

To support the protection of working waterfront the Maine Legislature enacted legislation creating a Working Waterfront Covenant for use with this program and by other efforts to secure working access to tidal waters. The Working Waterfront Covenant is a written legal agreement in recordable form between the owner of working waterfront real estate and one or more qualified holders, usually the Dept. of Marine Resources. It permits a qualified



holder to control, either directly or indirectly, the use, ownership and sales price of working waterfront real estate for the purpose of making and preserving the permanent availability and affordability of that real estate for commercial fisheries businesses. (See 33 M.R.S. c.6-A)

A model Working Waterfront Covenant has been developed and is available upon request. An abbreviated document “Covenant in a Nutshell” outlining the requirements of the WWF Covenant is also available here:

<https://www.maine.gov/dacf/lmf/docs/wwapp/CovenantSummary2014.doc>.

**Willing Seller:** The owner(s) of the property under consideration must agree in writing to allow the buyer to consider the purchase of his/her property or a covenant on the property. The seller will need to be willing to wait for the project to conclude prior to the sale, if the award is a necessity to finance the purchase.

**Appraised Value:** The property owner must be willing to abide by a determination of property value based on a real estate appraisal that conforms to USPAP standards and Land for Maine’s Future appraisal standards (see Appendix A). Please note that where the LMF appraisal standards refer to ‘easements’ this should be read to equally apply to the Working Waterfront Covenant. The amount of award for the sale of the covenant restrictions to the state is based on the value found by the appraisal. The applicant pays for the appraisal but may use the proceeds of the subsequent award to reimburse themselves for that expense.

If an appraisal is not completed prior to the application being submitted, the value represented in the application is expected to be within a reasonable range of the values that will be subsequently confirmed by a complete appraisal. Ideally, property values used in an application will be developed by a state certified general appraiser and provided in the format of a complete appraisal report, however, property valuation may be provided in the form of a statement of a range of values or a restricted use report. Some applicants choose to postpone the expenditure on an appraisal until they learn that their application is successful. A temporary alternative could be the use of a recent bank appraisal or the fair market value estimate of a local realtor who is knowledgeable about sales trends of similar properties.

The appraisal valuation date should be less than a year old at the time of the Appraisal Oversight Committee review. Appraisals are reviewed to assure adequate documentation for the stated value of the property. Reviews are done by an independent third-party peer appraiser contracted and paid by the LMF. The LMF Board’s Appraisal Oversight Committee then votes to accept an appraised value based on the reviewer’s advice.

**Business Plan:** Project applications will need to include a current business plan, with supporting financial documents. In the case of a municipal project or property to be held and managed by a qualifying entity, a property management or operations plan addressing the commercial fishing business use of the property, including maintenance, will be required to justify a grant request. The business plan should include information about planned management and maintenance of the property to maintain planned operations. In addition, it should specify how the use of awarded funds will improve the commercial fisheries business in the long term and bolster the statement with projected cash flows which realistically project operational improvements after the monies are put to use. The business plan will be helpful in addressing the selection criteria and generally supporting the project proposal.



The information in a business plan and related financial documents may be considered proprietary and confidential information, the disclosure of which would impair the competitive position of the business applicant. Maine law allows information submitted to the DMR under the provisions of this program to be designated by the applicant as propriety information and only for the confidential use of the Department, LMF program and Board, its agents and employees, other agencies of State Government as authorized by the Governor, and the Attorney General. The Commissioner of Marine Resources has established procedures to ensure that information so designated is segregated from the public records of the Department. The Department's records must include the indication that the information has been submitted to the Department, giving the name of the applicant and the general nature of the information. Public disclosure of this information under the Freedom of Information Act may be blocked upon a demonstration by the applicant that the information is proprietary. (See 12 M.R.S. Section 6173-A). Applicants must label information within their application as "Proprietary" or "Confidential" if they wish for these materials to be handled as such.

**Ownership and Organizational Capacity:** The applicant must have the capacity to undertake the project with a reasonable prospect of bringing it to a successful conclusion, considering the owner's ability, experience, and resources to manage the property appropriately.

**Project Readiness:** Project readiness is a criterion that reflects the degree of due diligence applied to the project and the certainty of a successful project. It is intended to be a guide to project selection decisions. The readiness level is determined by an assessment of project items completed.

Applicants should indicate with a yes or no answer whether the following readiness tasks have been completed by the date of the submission of the application. Readiness items include:

- Property values established by a state certified general appraiser according to WWAPP standards.
- Property values estimated by a non-standardized previous appraisal or a local realtor's examination.
- Cost share commitments or match established.
- Complete business plan submitted.
- Signed option, or purchase and sales agreement (in projects with an immediate property sale proposed.)
- Phase I Environmental Site Assessment conducted.
- Mortgage holder (if applicable) indicates a willingness to subordinate their interest to the terms of the covenant.
- Written agreement to abide by the Working Waterfront Covenant and Right of First Refusal submitted with the application.

**NOTE - Award of these funds may be considered taxable income and therefore have tax implications; applicants should consult with financial advisors.**

## Instructions

### **Application for Working Waterfront Access Protection Program (WWAPP)**

**ALL APPLICANTS** must submit a letter of intent to Melissa Britsch (address available in this section below) by **Monday, February 28<sup>th</sup>, 2022**. The letter of intent is not to be more than two pages in length and is to include the following information:

1. Confirmation that the applicant has the required match on hand;
2. Confirmation that the applicant has clear ownership of the property and is willing to sell and permanently encumber;
3. A brief summary of the importance of this site to the community and the region in both economic and social terms;
4. Number of vessels that use the site;
5. Number of households supported by the site, and;
6. A tax map from the municipality showing the location of the site in relation to the municipality's boundaries.

DMR/MCP staff will review all letters and notify potential applicants by **March 7<sup>th</sup>, 2022** as to whether or not the DMR will sponsor their project. Upon confirmation of sponsorship, the applicant can then proceed with the development and submission of a full project proposal.

**The full application needs to present a clear and complete description of the proposed project.** The information and questions in these application instructions are designed to guide you in providing the information needed to fully evaluate the project proposal. Applicants should provide good maps, aerial photos, site plans, and as much supporting information as necessary for a complete understanding of the project. A checklist of required supporting information is included at the end of the instructions. Include a "Table of Contents" and number all pages/exhibits to assist the Review Panel in the evaluation of your application.

**All applicants are required to use the following application structure and numbering sequence and to provide complete information for all applicable categories.** If a project does not involve buildings, piers/wharfs, or other structures, some of the application materials are not applicable. If not applicable, indicate so by placing a "N/A".

**Applications should be typed and not handwritten.** Individual copies may be placed in three-ring or spiral binders.

If you received a printed copy of this document and wish to receive an electronic version, please contact the consultants identified below and ask for the Working Waterfront Access Protection Program.

**1 electronic copy and 10 hard copies** of the proposal application and all supporting materials should be sent to:

Working Waterfront Access Protection Program

Melissa Britsch  
Senior Planner, Maine Coastal Program  
Maine Department of Marine Resources  
21 State House Station  
Augusta, ME 04333  
(P) (207) 215-6171  
(E) [Melissa.Britsch@Maine.gov](mailto:Melissa.Britsch@Maine.gov)

**Confidentiality** – The DMR, its agents, and state agency partners recognize the sensitive nature of business plans and other financial information that is required for a full and complete project application. Please mark all pages containing sensitive business and financial information as “CONFIDENTIAL” or “PROPRIETARY”. Materials so designated will be treated confidentially to the extent allowable by law. Please make sure any sections labeled as confidential can be removed from an application on their own (watch out for double-sided printing on these sections). Labeling “confidential” sections in the “Table of Contents” is also recommended.

## Application Outline

The following is an outline of the application with guiding questions to facilitate the application process. Please use the following application structure and numbering sequence to provide complete information.

### Title Page and Table of Contents

A title page may contain the property name and location, identify the applicant, and date the proposal. Each item listed in the Table of Contents page should refer to a numbered page within the application or to a divider tab separating sections within binder.

### Section I. Project Location and Contact Information

Indicate the property name or project title for the proposal. Indicate the location of the project by Town and County. List the current property owner (s), the project contact person, full mailing addresses and contact information and other partners supporting the project who are knowledgeable of the property and the project proposal.

- 1) Property Name/Project Title
- 2) Date of Application
- 3) Location of the Project, i.e. physical location
- 4) Current Property Owner and Mailing Address
- 5) Project Contact Person
- 6) Project Partners (if applicable)

### Section II. Financial Summary

Please provide a budget for the project that shows the purchase price and other project costs (Appraisal fees, Legal work, Property/Land survey, Environmental Site Assessment, etc), the amount of match to be contributed, and the amount of the WWAPP grant request. This information can be presented by completing Appendix C, Financial Worksheet.

Please answer the additional questions.

- 7) Project Budget. Present the estimated budget for the proposed project covering purchase costs for the property or interests being acquired, the values of contributed property or bargain sales, cost for services required to close the transaction, the source and amount of project match, and the amount of the funds requested. Note that the application will be considered incomplete without a full project budget. *See Appendix C, Financial Worksheet.*

*Please note that property values must be determined by a state certified general appraiser. For the purposes of the application, values can be taken from a limited scope or restricted use report, a recent Fair Market Value bank appraisal, or a written estimate from a knowledgeable realtor, but a full standardized appraisal report will be needed before project closing. Values represented in the application including the allocated award will be adjusted by those in a final appraisal.*

- 8) Have you or any of the other owners ever filed for bankruptcy? (please describe)
- 9) Business structure: Sole proprietorship\_\_\_\_ Partnership\_\_\_\_ S Corp\_\_\_\_ C Corp\_\_\_\_ Non-profit\_\_\_\_ LLC\_\_\_\_ Other (e.g. municipality)\_\_\_\_

- 10) If **not** a sole proprietorship, please include documentation of authority to pursue funding through the WWAPP.
- 11) Do you have a submerged lands lease with the State of Maine? If yes, please provide a copy of your submerged lands lease with your application.
- 12) If you have a submerged lands lease with the State of Maine, are you current on your lease payments?

### Section III. Project Description

- 13) Project Overview. Include an introductory narrative description of the project with history of the property, current layout of wharf and buildings, brief description of business activity and work conducted on the property, plan for investment of the award funds into the business, and why property owners seek a restrictive covenant for commercial fisheries or aquaculture use.
- 14) Location Information and Property Details. Please provide maps, aerial photos, property surveys, and site maps and diagrams of the project property sufficient to understand the location, dimensions, and setting of the property.
- 15) Economic Significance of the Property. What is the economic importance of the property to the commercial fisheries or aquaculture industries in the immediate vicinity and as part of the State economy?
  - A) Describe the fisheries (Groundfish, Lobster, Sea Urchin, Clam, Worm, Seaweed, Mussel, Scallop, Shrimp, Other, Aquaculture.) that will be served by this property and region of the State.

*The following questions are meant to guide the responses to this question:*

- i. What species are currently landed/harvested at the proposed project property? (please list)*
- ii. What species are currently landed in your community/municipality? (please list)*
- iii. What species are landed in this part of the state? (please list)*

B) Include the anticipated number and types of fishing or aquaculture support vessels and the portion of the year commercial fishing/aquaculture will occur from this particular property and/or harvesters and number of harvesting licenses. Describe the seasonal nature of the fishing/cultivation activities.

*The following questions are meant to guide the responses to this question:*

- i. Anticipated number of fishing/support vessels? (please describe)*
- ii. Anticipated types of fishing vessels/support? (please break out by number and type of fishing/support vessel)*
- iii. What portion of the year commercial fishing/cultivation will occur from this particular property? (please describe the months and activity)*
- iv. How many harvesters have historically been using this facility/property? (please provide a number and describe)*
- v. How many harvesters do you anticipate will be using this facility/property if the project is approved? (please provide a number and describe)*

- vi. *How many fishing or harvesting families does this represent? (please provide the number of families and describe)*
- vii. *Please list any other full or part time employees associated with the facility/property and their job titles; including but not limited to Sternmen, Clerical assistance, dock hands etc. (please list).*
- viii. *How many individuals on the site are exclusively cultured harvesters vs. both cultured and wild harvesters?*

C) Include the historical and/or anticipated volume (pounds) and dollar value of landings/harvest. Address the economic and local significance of this proposal within the relative sector(s) of the industry.

*The following questions are meant to guide the responses to this question:*

- i. *Historical landings at the proposed property (last three years)*  
*Pounds landed:*  
*Dollar value:*
- ii. *Anticipated landings at the proposed property (projected ahead 1 year)*  
*Pounds landed:*  
*Dollar value:*
- iii. *What impact does the property have on the economic well being of the local community? (please describe)*
- iv. *What percent of the applicants' income is derived from the commercial fishing/aquaculture business? (please provide a percent and describe)*
- v. *How do species and landed volume vary with the seasons?*
- vi. *In the case of a mixed-use property (marine trade, service-oriented business, boat yard) the applicant must demonstrate that some portion of their business is available to Commercial Fishing/aquaculture use. What portion of your land use and revenue base is used to support commercial fishing/cultivation? (please provide a percent and describe)*  
*% of business:*  
*% of land use:*

D) Please specify the following physical dimensions of each of the following:

*The following questions are meant to guide the responses to this question:*

- i. *# Square Ft. (pier/wharf only):*
- ii. *# Square Ft. (floats only):*
- iii. *# Berthing space (linear feet):*
- iv. *# Acres of land:*
- v. *# Feet of shore frontage:*
- vi. *# Square feet of parking area: (and how many parking spaces)*
- vii. *List and describe all facilities and services available-processing, fuel, bait storage, gear storage, refrigeration, hoists, etc.*

- viii. *In the case of clamming or other similar access please describe the access point to the best of your ability. Parking? Gear loading? By foot only?*
- ix. *In the case of aquaculture, please list anticipated other types of machinery to be used on the site? (Ex. Tumbler, upweller, power washers, lobster hauler to pull bags, etc...)*

16) Alternative Properties in the Vicinity. Please describe all other facilities in the area, the services they provide and how this project fits into that bigger picture of commercial fisheries access.

*The following questions are meant to guide the responses to this question:*

- i. *What is the existing waterfront infrastructure in the community? (Please list all facilities, the access they provide and the services available.)*
- ii. *Describe the existing infrastructure “available for use” to fishermen in the community. (please describe)*
- iii. *Is any of the existing infrastructure publicly owned or otherwise secured? (please describe)*
- iv. *How does this project fit into the existing working waterfront? (please describe)*
- v. *How does this project help meet the need for commercial fishing access in the region and locally? (please describe)*
- vi. *How will the proposed project secure and/or provide critical capacity and complement or augment existing working access? (please describe)*
- vii. *If this is to be a new facility, will this project compete with other established facilities and businesses? (please describe)*
- viii. *Is this project crucial/how does it help support or fill access needs? (please describe)*
- ix. *Are any alternative properties available or being considered for the WWAPP program? (please list and describe)*

17) Community Support. What is the degree of community support for the proposed project that is demonstrated by letters of support, financial contributions, and supporting business and/or town?

*The following questions are meant to guide the responses to this question:*

- i. *What is the community doing to support working waterfront and commercial fishing/aquaculture? (please describe)*
- ii. *Does the municipality have a comprehensive plan?  
If yes, does it address commercial fisheries or aquaculture?*
- iii. *Does the municipality have land use ordinances which include working waterfront and or commercial fishing zoning? (please describe)*
- iv. *If so, does this project fall within that zoning? (please describe)*
- v. *Does the community have tax incentives for working waterfront? (please describe)*



- vi. *Does the applicant have any letters of support: town council / selectmen, public citizens, harbor committee, state representative, other members of the industry, neighbors of the property, other local businesses or local non-profit organization? (please include)*
- vii. *Is there any opposition to the project? If so, on what grounds? (please describe)*

18) Threat of Conversion. What is the threat of conversion to uses that would be incompatible with commercial fisheries businesses? How is this reflected in the patterns and trends of waterfront development within the area?

*The following questions are meant to guide the responses to this question:*

- i. *Rate the threat of conversion as high(immediate), medium (near term) or low (long term) based on current market conditions and the local pattern of historical working waterfront property loss and the potential for non-fishing development given zoning and local regulations.*
- ii. *To document the potential for conversion to non-marine uses of the proposed property for protection please provide:*
  - a. *The number of fisheries related properties in the vicinity that have been converted to non-fisheries uses in the last two years? In the last ten years?*
  - b. *The number of subdivision permits issued in the last two years? In the last ten years?*
  - c. *The number of new house lots approved in the last two years? In the last ten years?*
  - d. *The number of building permits issued in the last two years? In the last ten years? (A good source for this information is your town office.)*
- iii. *Have there been any previous unsolicited offers on this particular property? (please describe)*
- iv. *What are the limitations or restrictions that currently exist on this particular property regarding: property setbacks, zoning, public water and public sewer? (please describe) (A good source for this information is the Code Enforcement Officer at your town office.)*
- v. *Is the current access via informal arrangement and thus threatened by potential changes in ownership?*

19) Utility of the Property for Commercial Fisheries/Aquaculture Business. Describe the utility of the proposed protected property for commercial fisheries/aquaculture business uses in terms of its natural characteristics and developed infrastructure (parking, deepwater or all tide access, availability of fuel, ice, bait, small boat launch access, ramps, floats, hoists, buying station, circulating seawater tanks, trucking, existing or planned investment in energy efficiency, and existing or planned resilience in anticipation of sea level rise etc.)

*The following questions are meant to guide the responses to this question:*

- i. *Please describe the built and natural infrastructure available to support the needs of the commercial fisheries/aquaculture uses on the property.*

- ii. Does this property/facility provide all tide access? (please describe)
- iii. Please describe the ease of access and operation at the facility and what needs to be done to improve it? Are these improvements/ actions included as part of the proposal? (please describe)
- iv. What is the current condition of any structures on the property? (please describe buildings, pier/ wharf, other)
- v. Have the pier/ wharf structures on the property recently been inspected or professionally evaluated for their structural integrity and soundness? (please provide a date, describe and provide a copy of this report)
- vi. When were the structures built? (please describe what year)
- vii. When was the last maintenance performed on the property? (please provide a date and maintenance performed)
- viii. Is there a maintenance budget or a reserve account for ongoing maintenance? (please describe and provide a copy for the following 1-year)
- ix. What is the repair schedule for future maintenance? (please describe)
- x. Have you invested or do you plan to invest in any form of energy efficiency on the property? (please describe)
- xi. Have you taken any steps or do you plan to take any steps to increase the resiliency of the property or adapt your commercial fishery in anticipation of sea level rise? If yes, please describe. If you'd like to learn more about sea level rise and how it's projected to affect your property, please see [Sea Level Rise/ Storm Surge: Maine's Geologic Hazards: Maine Geological Survey: Maine ACF](#).

20) Capacity to Create New Shore-side Jobs. Describe the capacity to create new shore-side jobs directly related to the waterfront facility/property as an anticipated result from an award from the program.

*The following questions are meant to guide the responses to this question:*

- i. Please describe recent job losses in the surrounding community (either in the commercial fishing industry or other industries).
- ii. Recent unemployment rate statistics should be cited for the town and county where the project is located. (please describe)
- iii. What is the anticipated number and type of jobs created? (please describe)
- iv. What are the anticipated starting wages? (please describe)
- v. Will the jobs be full-time or part-time status? (please describe)
- vi. Identify employee benefits including but not limited to health/ dental/ life/ disability insurances and a pension plan. (please describe)
- vii. Identify job-specific training resources, anticipated opportunities for career advancement or higher education and training. (please describe)

#### **Section IV. Other Project Considerations**

21) Project Readiness. Project readiness is a criterion that reflects the degree of due diligence applied to the project and the certainty of a successful LMF project. The readiness level is determined by the cumulative assessment of project items completed.

*Applicants should indicate with a **yes or no answer** whether the following readiness tasks have been completed by the date of the submission of the application. Readiness items include:*

- *Property values established by a Maine Certified General appraiser according to Appendix A, Appraisal Standards*
- *A section in the budget clearly identifying costs associated with legal retainer, the appraisal, and the Phase I Environmental Site Assessment*
- *Property values estimated by a previous appraisal or a local realtor's estimate*
- *Cost share commitments or match established*
- *Complete business plan submitted with the intended uses of award monies explained*
- *Signed option, or purchase and sales agreement (in projects with an immediate property sale proposed)*
- *Phase I Environmental Site Assessment completed*
- *Mortgage holder (if applicable) indicates a willingness to subordinate their interest to the terms of the covenant*
- *Written agreement to abide by the Working Waterfront Covenant and Right of First Refusal submitted with the application*

22) Organizational Capacity. Describe your capacity to undertake the project with a reasonable prospect of bringing it to a successful conclusion. Be sure to include a description of the principal owners and operators, and the experience, ability, and resources they have at their disposal to manage the property appropriately. (Resumes may be included.)

23) Permanent Protection of the Property. A Working Waterfront Covenant must be used to secure permanent protection of the property for commercial fishing uses.

*The following questions are meant to guide the responses to this question:*

- i. Are you prepared to enter into a Working Waterfront Covenant with interests in the land to be held by the State of Maine Department of Marine Resources and, if applicable, additional state or federal or non-governmental entities?*
- ii. If your situation changes and you decide you have to sell this property in the future, are you prepared to allow the Department of Marine Resources the Right of First Refusal that permits intervention in a proposed future sale of the property to enforce the terms of the covenant restrictions?*

*\*Exercise of the Right of First Refusal- An appropriate sale price must be determined by an independent professional appraiser based on the value of the property as a commercial fisheries business at the time of exercise of the right. If the negotiated price between buyer and seller for the property exceeds the appraiser's value as described above, then repayment is required by the Grantor to the State of the greater of a) the original grant amount or b) an amount equal to the proportion that the value of this Covenant bears to the fair market appraisal value of the Protected Waterfront unrestricted by this Covenant on the date of such sale, exchange or conversion.*

## **Section V. Attachments**

The following attachments are required to be considered for funding. It is the applicant's responsibility to collect, assemble and forward this information to the Working Waterfront Access Protection Program Team to assure a complete application is filed for funding consideration.

Early Submission is encouraged and welcomed, to ensure a complete application. **Please note that DMR reserves the right to deny any application it does not consider complete per the sections and requirements outline in this Workbook AND/OR if the applicant has not submitted a letter of intent by the required date and received sponsorship confirmation from DMR.**

### Checklist of required supporting documents

- \_\_\_A simple site plan or plot plan of the property under consideration
- \_\_\_A formal written business plan which proposes how the award will be used to purchase or improve the property or business; or in the case of a municipality or other non-business entity, a management plan with operations, maintenance, repair and upkeep arrangements
- \_\_\_A signed financial statement
- \_\_\_Cash flow projections for the project (*2 years: one year before the award is made and a year after the investment of the award monies into the property or business. When contrasted, these should demonstrate financial improvement of the business.*)
- \_\_\_Current rental income documented (*if applicable*)
- \_\_\_Maintenance plan and/or repair schedule for future maintenance
- \_\_\_Description of 1:1 committed matching dollars including breakdown by source
- \_\_\_Copy of the latest property tax bill
- \_\_\_Copy of the municipal tax map
- \_\_\_Copy of the current property owner's recorded Deed of the Property plus any encumbrances including but not limited to existing easements or Rights of Way
- \_\_\_A list and description of current easements that exist on the property
- \_\_\_A boundary survey map of the property suitable for recording, if one exists (one will be needed for closing if project is approved for funding)
- \_\_\_If applicant is not the current landowner, a copy of the Purchase and Sales Agreement or other documentation evidencing Applicant's interest in the property.
- \_\_\_If applicant is not the current landowner, a written and signed statement that the landowner(s) are willing participants in the application process.
- \_\_\_If applicant is a corporation or Co-op, documentation of authority to pursue funding through the WWAPP.
- \_\_\_A copy of your submerged lands lease, if applicable
- \_\_\_A property appraisal that conforms to USPAP standards and Land for Maine's Future appraisal standards. The appraisal should provide the fair market value of "Before" and "After" and the resultant Value of the Conservation Restriction, or
- \_\_\_A restricted use appraisal report or other analysis (such as a qualified realtor's estimate) to substantiate property values articulated in project budget (a full appraisal will be needed for closing if project is approved for funding). See Appendix A.
- \_\_\_Letter(s) of support
- \_\_\_A letter of intent to enter into the Working Waterfront Covenant and Right of First Refusal.

# Appendix A

## Appraisal Standards

### Instructions for Applicants and Appraisers

When the value of the working waterfront covenant is less than 25% of the fair market value, the LMF Board will consider requests for up to 25% of the fair market value of the property. LMF appraisal standards specific to before-and-after analysis can be found at the end of this appendix.

Appraisal Reports on WWAPP properties are reviewed to assure adequate justification for the stated value of the property. Reviews are done by an independent third-party peer appraiser contracted and paid for by the LMF.

#### General Requirements

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

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

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

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

## **Direct Sales Comparison Analysis**

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

## **Specifications for the Appraisal Report**

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

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

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

1. Letter of Transmittal
  - a) Standard transmittal letter, including specification that landowner or designated represented was provided the opportunity to participate in the inspection of the property.
  - b.) Summary of appraisal assignment
  - c.) Size of property, effective date, and estimated value.
  - d.) Statement that the appraisal meets LMF standards
2. Title Page
  - a) name of property owner(s)
  - b) street, town, and county

- c) size of subject property
  - d) effective date of appraisal
  - e) name and address of appraiser
  - f) appraisal report must identify LMF, DMR, and the State of Maine as intended users
3. Table of Contents
4. Area Maps
- Maps or images adequate to locate and identify size and location of subject property. Maps must show roads leading to subject. Delineate project boundaries on all maps.
5. Summary of Important Facts and Conclusions
6. Purpose of Appraisal and Definition of Market Value
7. Area and Neighborhood Analysis
- The appraiser should present all findings and conclusions about the external influences (social and economic) which could affect the value of the subject. The presentation should be analytical and related to the valuation problem at hand. Avoid itemization of facts and figures not pertinent to value.
- Include:
- a) Description of community (rural, suburb, resort, etc.)
  - b) Population trend
  - c) Reasons for trend, i.e., new industries, outward migration, etc.
  - d) Rate of construction activity in town
  - e) Utilities and public roads available in the area
  - f) Brief description of relevant municipal planning
  - g) Immediate neighborhood: enhancing or detrimental factors
  - h.) Recent real estate market activity
8. Site Map
- A photocopy of a survey map is best. In the absence of a survey, a tracing of the property boundaries from an orthophoto is preferred.
9. Land Description as Appropriate for Type of Subject Property
- a) total acreage being appraised
  - b) shape of parcel
  - c) total road frontage
  - d) land cover and topography, i.e., wooded, wetlands, mountain summit, etc.
  - e) brooks, rivers, ponds, etc.
  - f) brief soil description and analysis based on USDA Soil Survey, if appropriate
  - g) utilities available to site (how far, sewer, water, power lines, public road)
  - h) is there a local septic, building, lot size, or other development ordinance?
  - i) easements and title encumbrances affecting the value
  - j) existing state or local permits?
  - k) gravel, loam, sand, etc. -- commercial value?



- l) use of adjacent land if pertinent
  - m) access
  - n) flood hazard
  - o) view/visibility
  - p) when timber or agriculture is a significant component of the value of the land, appraisers are expected to offer an informed discussion of timber values.
  - q) note a ten-year history of conveyance of the property
10. Improvements  
Describe those that are present, discuss condition, present use, and how they contribute to highest and best use.
11. Assessment  
Current assessed valuation (state if property is in Tree Growth, Open Space, Farmland, or Working Waterfront), tax rate, and copy of annual tax bill.
12. Zoning
- a) Describe zoning of subject property, including dimensional requirements of applicable zone.
  - b) If there are pertinent sections from municipal by-laws, include them in Addenda
13. Legal Description
- a) Include copy of recorded deed in Addenda
  - b) Indicate registry and book and page number
  - c) Note any deed restrictions or easements which would affect value
14. Highest and Best Use  
The report shall state the highest and best use that can be legally made of the property for which there is a current market.
15. Appraiser's reconciliation and certification of value
16. Addenda
- a) Comparable sales maps
  - b) Photographs of subject and all recent comparable recent sales
  - c) Description of each comparable sale and listings
  - d) Applicable portion of zoning ordinances, by-laws, and other local regulations
  - e) Wetlands or flood plain map (delineate boundaries within the subject property)
  - f) Site plan sketch if Income or Development Approach is used
  - g) Appraiser's qualifications
  - h) Statement of limiting conditions
  - i) Copy of recorded deed

## **SPECIFICATIONS FOR APPRAISAL REPORTS FOR APPRAISALS USING BEFORE-AND-AFTER ANALYSIS OF WORKING WATERFRONT COVENANT RESTRICTIONS**

**(note that most working waterfront projects chose to use a fee simple comparable sales analysis):**

This section provides additional guidance for appraisal of projects involving working waterfront covenant transactions.

The appraiser will need the following:

- Final draft<sup>2</sup> of the proposed working waterfront covenant.
- Appraisal standards from funding sources other than LMF, when applicable.

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

### **General Description of Methodology**

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

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

The Direct Sales Comparison Approach as described on page 20 should be utilized as the primary method in valuing the unencumbered property. The Cost of Development Approach and Income Approach should only be used if they are applicable. A discussion of why they are being utilized should be included. If any secondary approach to value is used, the results should be compared against the Comparable Sales Approach. If values do not closely agree, the reason for the divergence should be explained fully.

#### **II. After Value Analysis**

The Highest and Best Use (HBU) of property subject to the proposed restriction should be carefully considered. While commercial fishing access may be the highest and best use of the encumbered land, the after value should not be assumed to be synonymous with “commercial fishing value” due to the potential HBU of encumbered properties as “coastal non-fishing estates.”

A careful discussion of the proposed restrictions should be included in the after-value analysis. Make sure that the proposed restrictions including any reserved building rights or access easements are carefully considered as they may affect highest and best use. The

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

Direct Comparable Sale Approach is considered to be the best indicator of value. An Income Approach should be used only as a secondary approach.

a. Description of land to be subject to covenant restrictions.

A map must be included that identifies;

- land to be encumbered;
- land to be excluded (that are part of the conveyance but not part of the covenant) from the covenant restrictions.
- Any reserved building rights allowed in restrictions must be discussed in the appraisal and shown on the map of encumbered land.

b. Direct Sales Comparison

1. Sales should be legally encumbered with similar covenants or adjusted to best reflect the covenant to be imposed on the subject property.
2. Physically restricted properties such as flood plain land, should be adjusted for soil productivity, physical restrictions, and any other factors associated with the proposed covenant on the property which affect value.
3. Consider the diminution in value to the property by any requirement for grantee approval, restriction of timber, sand and gravel rights, other mineral rights, or Right of First Refusal, etc. Also describe any specific conservation or management practices in the covenant that may affect value.
4. Enhancement value accruing to reserved lots, abutting land or lands in the same neighborhood under related ownership must be considered. Due to limited market transactions involving restricted land, greater adjustments for time and location may have to be made.
5. Include a discussion of each comparable sale and point out any circumstances that could have an effect on value. All comparable sales should be confirmed with knowledgeable parties and must include documentation. This is especially true if the transaction included the sale of covenant restrictions to a government agency or a conservation organization.

The reports should be to the standards of the Uniform Standards of the Professional Appraisal Practice (and of Section 1.170 A-13(c)(3) of the Internal Revenue Service Code if federal funds are involved in the transaction).

In addition to the reporting specifications on page 20-23, appraisal reports for working waterfront covenant projects should include the following:

1. A narrative description of the “before and after” of the covenant restrictions.
2. Land Description - Soil description and analysis from USDA Soil Survey.
3. Improvements - include commercial and residential improvements - condition, present use and contribution to highest and best use.

4. Other components being appraised - public access rights, hunting and fishing rights, etc.
5. Highest and Best Use  
The report shall state the highest and best use that can be legally made of the property for which there is a current market. In the appraisal of vacant land, the terms “highest and best use” and “feasible use” should be synonymous. Highest and Best Use should be applied to both the Before and After Analysis.
6. Certification of Value of “Before” and “After” and the resultant Value of the Covenant Restriction.
7. Addenda
8. A copy of proposed working waterfront covenant

For more information contact: Sarah Demers, Director  
Land for Maine’s Future Program  
207-287-7576

# Appendix B

## WWAPP - Scoring Criteria

### **(20 pts) Economic Significance of the Property**

Explanation: This criterion considers the economic importance of the property to the commercial fisheries industry in the immediate vicinity and as part of the State economy. Factors such as the numbers and types of fishermen using the property, the value of landings, the amount of use the property receives over time, and the essential role of the property to providing commercial fishing access in the vicinity and to the industry as a whole. Significance is gained by serving many and diverse fisheries, providing essential access in the area (the last or one of the remaining few working piers in the area), the role the facility plays in the local economy such as purchasing goods and services and providing employment, and its importance to the fisheries being served and contributions to the state economy as a whole.

(14 - 20 pts) The property is highly significant because of the numbers and diversity of fishermen and vessels using (or likely to be using) the facility, the relatively high proportion of landings in the area and for particular fisheries, it is the single or one of a few remaining working piers in the area, is a major part of the local economy, and contributes to the state economy.

(7 – 13 pts) The property is moderately significant because of the numbers and diversity of fishermen and vessels using the facility, the relatively moderate proportion of landings in the area and for particular fisheries, is an important part of the local economy, and contributes to the state economy.

(0 – 6 pts) The property has limited significance because of the relatively low numbers and diversity of fishermen and vessels using the property, the limited amount of landings for the area and fisheries, a small part of the local economy, and makes small contributions to the state economy as a whole.

### **(15 pts) Alternative Properties in the Vicinity**

Explanation: This criterion considers how the project fits into the existing commercial fishing situation and if other working waterfront properties exist in the same vicinity that are also supporting commercial fisheries uses. How does this project help meet the need for commercial fishing access in the area? For example, will the proposed project provide critical capacity, complement and augment existing working access and contribute to a pattern or critical mass of waterfront facilities and services? How will the project secure critical capacity needs and not compete with other established facilities and businesses? Why is this project crucial/how does it help support or fill access needs? Is there a better alternative project? Are any alternative properties available or considered? Are any of the similar properties in the

vicinity publicly owned or otherwise secured? "Vicinity" in this case means the area surrounding the proposed project, whether a harbor or port or stretch of waterfront; "alternative properties" are any sites or facilities that could reasonably serve the affected fisheries businesses.

(11 - 15 pts) The property is highly needed because it provides secure critical commercial fishing access in the area and for particular fisheries that cannot or will not be met by other properties, that augments and compliments existing working access, that is integral to the working waterfront, is needed to assure adequate fishing access.

(6 – 10 pts) The property is moderately needed because it secures commercial fishing access, contributes to the capacity for working access in the area, is part of a pattern of working waterfront that is meeting access needs.

(0 – 5 pts) Need for the property is limited because it provides a small or limited amount of secure commercial fishing access that can be or is provided by other existing sites and facilities such as a municipal fish pier or commercial business.

### **(10 pts) Degree of Community Support**

Explanation: This criterion considers the degree of community support for the proposed project that is demonstrated by letters of support, financial contributions, and supporting business and/or town actions will increase the significance of a project. Community support comes in a range of ways such as the existence of a comprehensive plan that recognizes the importance of the fishing industry to the community, the adoption of land use ordinances designed to protect working waterfront areas, property tax incentives to help fishing business retain ownership and use of lands and facilities, business partnerships, financial contributions, and community support in the form of letters and endorsements of the project.

(7 – 10 pts) The proposed project has high community support as evidenced by numerous measures, which could include (1) letters of support from local fishermen and fishing organizations, surrounding property owners and waterfront users, chambers of commerce and businesses benefiting from operation of the property, municipal officials, and community members addressing the impacts or merits of the project; (2) demonstrated financial and other contributions from project partners and other supporters; and (3) municipal support such as an adopted comprehensive plan that is consistent with the State's Growth Management Act with one or more measures related to protection of working waterfronts implemented as recommended in the plan, and/or land use ordinances, tax policies and other actions designed to support commercial fishing activities in the project area.

(4 - 6 pts) The proposed project has moderate community support as evidenced by some measures of support, which could include (1) letters of support and endorsements of the project; (2) limited financial and other project support; and (3) municipal support such as an adopted comprehensive plan that is consistent with the State's Growth Management Act

that recognizes the importance of maintaining commercial fishing access, with some supporting actions in the project area.

(0 – 3 pts) The proposed project has minimal community support, with little demonstration of support from fishermen, businesses, municipal officials, or community members; minimal supporting municipal actions, and little outside financial support.

**(20 pts) Level of Threat of Conversion**

Explanation: The threat of conversion to uses incompatible with commercial fisheries businesses can be reflected in the patterns and trends of waterfront development within the area. Population trends, escalating property values, the previous loss of similar fishing properties to other uses, and an active real estate market are measures of threat. Property that can be converted and/or redeveloped under existing land use regulations is an indication of high threat level. Properties used with informal access arrangements may also be highly threatened by unforeseen changes in ownership.

(14–20pts) The property is highly threatened by current/emerging conversion to other uses as evidenced by development pressures in the community and surrounding areas. There is a demonstrated market for the property to be converted to non-fisheries uses.

(7-13 pts) The property is moderately threatened by current/emerging conversion to other uses as evidenced by development pressures in the community and surrounding areas. The property may have some development potential.

(0-6pts) The property is slightly threatened by current/emerging conversion to other uses as evidenced by development pressures in the community and surrounding areas. The property is restricted in use to commercial fishing or water dependent uses, or the properties best economic return is through use for commercial fishing business.

**(20 pts) Utility of the Property for Commercial Fisheries Business**

Explanation: The utility of the proposed protected property for commercial fisheries business uses in terms of its natural characteristics and developed infrastructure is an important factor in evaluating the significance of a project. Properties in good repair or put into good repair, with convenient access, room to operate from land and water, well-maintained infrastructure, existing or planned investment in energy efficiency, and existing or planned resilience in anticipation of sea level rise will demonstrate high utility.

(14 – 20 pts) The property has high utility for the uses proposed because of its existing and planned improvements, its existing or planned resilience in anticipation of sea level rise, its setting in proximity to boat channels and land transportation systems, critical and supporting services in the area, and operational space.

(7 – 13 pts) The property has medium utility for the uses proposed because of its existing and planned improvements, its setting in proximity to boat channels and land transportation system, critical and supporting services in the area, and operational space.



(0 – 6 pts) The property has limited utility for the uses proposed because of its existing and planned improvements, its setting in proximity to boat channels and land transportation system, critical and supporting services in the area, and operational space.

### **(15 pts) Capacity to Create New Shore-side Jobs**

Explanation: The capacity to create new shore-side jobs is a criterion used to evaluate the potential for new job creation directly related to the waterfront facility/property.

(11 – 15 pts) The project has clear plans in place for new hires in the seafood industry. Several (full-time or part-time) jobs will be created, with livable wages, employee benefits including but not limited to health/dental/life/disability insurances and a pension plan. Job-specific training resources for workers in new jobs such as anticipated opportunities for career advancement or higher education and training are expected to be offered.

(6 – 10 pts) The project has outlined plans for new hires in the seafood industry. A few (full-time or part-time) jobs will be created, with livable wages, and some employee benefits. Job-specific training resources for workers in new jobs are anticipated.

(0 – 5 pts) The project has very limited or no plans in place for new hires in the seafood industry. Very few jobs will be created and limited employee benefits will be offered. Job-specific training resources such as anticipated opportunities for career advancement or higher education and training are not expected to be offered.

### **Additional Considerations for Evaluating Proposals**

In addition to applying the identified selection criteria, the Review Panel and program staff have established the following considerations that may be used to evaluate the significance and impacts of projects. These secondary considerations are:

- the proposed use of award monies to enhance the long-term viability of the business,
- the geographic distribution of projects to assure coast-wide benefits,
- the variety of projects proposed in order to reflect an array of project types,
- the strategic importance of the property to a specific commercial fishery,
- the viability of the proposal and the applicant's capacity to carry out the project,
- the demonstration of a strong and long-term commitment to the fishing industry, and
- the level of effort or leverage with matching funds.
- the degree of contamination of the property

# Appendix C

## WWAPP: Financial Worksheet

The following form should be used to present the financial information for the proposed project in Section II, Financial Summary of the written application. Read footnotes carefully. Please consult staff with any questions. Enter all applicable values; proposals with incomplete information will not be accepted.

### Appraised Property Values

Fair market value (highest & best use)	_____	
Value of property in commercial fisheries use	_____	
Working waterfront covenant value <sup>3</sup>	_____	_____

### Other Project Costs<sup>4</sup>

Appraisal	_____	
Legal work (title, covenant, closing, other)	_____	
Land survey	_____	
Environmental Site Assessment	_____	
Other contributions or services (specify)	_____	
<b>Total Other Project Costs</b>	_____	_____

**Total Project Value** (*working waterfront covenant value + other project costs*) \_\_\_\_\_

**Project Request<sup>5</sup>** \_\_\_\_\_

### Match

Remaining property value <sup>6</sup>	_____	
Donated value of covenant (if any) <sup>7</sup>	_____	
<b>Total Tangible Match<sup>8</sup></b>	_____	_____
<b>Total Intangible Match<sup>9</sup></b>	_____	_____
<b>Total Match</b> ( <i>intangible + tangible</i> ) <sup>10</sup>	_____	_____

**Total Project Worth** (*Total Match + Request*) \_\_\_\_\_

<sup>3</sup> Property values should be based on an appraisal to LMF appraisal standards or an opinion of value from a qualified appraiser. The working waterfront covenant value is the difference between the Fair market value and the value restricted to commercial fisheries. Discuss the appraisal (who did it, how recently) in the application.

<sup>4</sup> Identify project costs as actually incurred or estimated. We strongly recommend obtaining quotes for Other Project Costs.

<sup>5</sup> Applicants may request the full value of the appraised Working Waterfront Covenant when the covenant value is between 25% and 50% of the Fair Market Value. When the value of the covenant is less than 25% of the Fair Market Value, the LMF Board will consider requests for up to 25% of Fair Market Value of the property. These requests are judged on a case by case basis according to the scoring results of the application during review.

<sup>6</sup> Subtract appraised Covenant Value above from appraised Fair market value.

<sup>7</sup> If the requested amount is less than the appraised covenant value, enter the difference as “Donated value of covenant”. Note that in competitive grant rounds, the Board will consider the level of donated value as a competitive advantage.

<sup>8</sup> Add remaining property value and donated covenant value (if any).

<sup>9</sup> Carry down “Total Other Project Costs” from above.

<sup>10</sup> Total match amount must be greater than request amount.

## Mock-up Example

The following example of the Appendix C Form uses numbers from an imaginary appraisal to illustrate how the values from an appraisal and from actual or estimated project costs are plugged into the form. In this appraisal the fair market value of the property is considered to be \$720,000, while the value for commercial fisheries use (the encumbered property value) is found to be \$540,000. Subtracting the two numbers yields a working waterfront covenant value of \$180,000. The Total Project Value is the sum of the covenant value and all other out of pocket expenses the applicant has paid or will pay to complete the project.

When an applicant asks for less money than the covenant is worth (see Project Request amount), the shortfall is considered a donation to the match (found under Match – donated value). This number will be zero when the applicant requests the full covenant value as the award. Total match is obtained by adding the remaining value of the property in commercial fisheries use (\$540,000 in this example), the donated value (together considered Tangible Match), and the Total Other Project Costs (considered Intangible Match). Finally, the Request amount when added to the Total Match amount yields the Total Project Worth.

### Appraised Property Values

Fair market value (highest & best use)	<u>\$720,000</u>	
Value of property in commercial fisheries use	<u>\$540,000</u>	
<b>Working waterfront covenant value</b>		<b><u>\$180,000</u></b>

### Other Project Costs

Appraisal	<u>\$5,000</u>	
Legal work (title, covenant, closing, other)	<u>\$2,500</u>	
Land survey	<u>\$5,000</u>	
Environmental Site Assessment	<u>\$1,500</u>	
Other contributions or services (specify)	<u>          </u>	
<b>Total Other Project Costs</b>		<b><u>\$14,000</u></b>

**Total Project Value** (*working waterfront covenant value + other project costs*) **\$194,000**

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**Project Request** **\$180,000**

### Match

Remaining property value	<u>\$540,000</u>	
Donated value of covenant (if any)	<u>\$0</u>	
<b>Total Tangible Match</b>	<b><u>\$540,000</u></b>	
<b>Total Intangible Match</b>	<b><u>\$14,000</u></b>	
<b>Total Match</b> ( <i>intangible + tangible</i> )		<b><u>\$554,000</u></b>

**Total Project Worth** (*Total Match+ Request*) **\$734,000**

The Summary figures generated within the Appendix C Form (using a real appraisal and real costs) are the ones which should be written into the paragraphs within the Financial Summary Section.